RE: Minutes for Public Hearings and Open Meeting held on June 6, 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:

New Hearing:

#021-19 Velonias, 154 Edgewater Drive East, East Falmouth
#023-19 Berube, 34 Ocean View Avenue, North Falmouth
#024-19 Romiza, Trustees, 8 Worcester Avenue, Falmouth

Open Meeting:

1. Minutes of and May 30, 2019
2. Request for Board Administrative Approval - #031-19 Valle, 415 Shorewood Drive, East Falmouth construct shed in front yard more than 50’ from front property line
3. Request for Board Administrative Approval - #033-19 Moniz, 14 Knollwood Drive, East Falmouth convert existing breezeway to habitable space
4. Request for Board Administrative Approval - #95-15 Village at Old Main, LLC – 41 Old Main Road, North Falmouth – Minor modifications to approved plans
5. Discuss and vote decision - #115-18 Woods Hole Partners LLC, 533 Woods Hole Road, Woods Hole
6. Board Updates
7. Discuss Date for Future Workshop
8. Board Discussion RE: Zoning Recodification Committee
9. Future Agenda Items

Kenneth Foreman, Vice Chairman, Board of Appeals:

Date Minutes filed with Town Clerk: ___________________ Town Clerk Stamp ___________________

Respectfully submitted
Ashley DeMello, Office Assistant
Noreen Stockman, Zoning Administrator
Zoning Board of Appeals
Selectmen’s Meeting Room – Town Hall
- Minutes of June 6, 2019

Members Present: Terrence Hurrie (Chairman), Kenneth Foreman (Vice Chairman), Robert Dugan (Clerk), Edward Van Keuren (member), Gerald Potamis (member), Mary Barry (associate) and James Morse (associate)
Zoning Administrator: Noreen Stockman

R.Dugan made a motion to take the Agenda items out of order #’s 2,3 and 4

2) **#031-19 Valle, 415 Shorewood Drive, East Falmouth** – Administrative Request to construct a shed within the front yard, more than 50’ from the front property line

Joe Valle, applicant – Our application is to install a 12 ft x 16 ft shed, which will be 50 ft from the road, but in front of the house

R.Dugan made a motion to grant the administrative approval. E.Van Keuren seconded the motion. All in favor 5-0.

3) **#033-19 Moniz, 14 Knollwood Drive, East Falmouth** – Administrative Request to convert existing breezeway into habitable space

Mark Moniz, applicant – When we started this project years ago, our intention for this space was to be a mudroom, but the architect didn’t put the walls in the plan, so it stayed a breezeway. It’s an 8 ft x 9 ft space between my living room and garage.

K.Foreman – What’s non-conforming?

M.Moniz – I’m not sure other than the house is too close to the street. The garage and breezeway that were added and met the minimum setback requirements.

K.Foreman – This doesn’t result in lot coverage change, does it?

G.Potamis made a motion to grant the administrative approval. E. Van Keuren seconded the motion. Motion carried 5-0.

4) **#95-15 Village at Old Main Road, 41 Old Main Road, North Falmouth** – Modification to previously approved plans of the Comprehensive Permit

Michael Borselli is representing the applicant. One of the requests is to relocate some of that guest parking, that had been previously along the common driveway, to 4 spaces inside the island. This will allow for more landscaping in front of the units, the spaces will be screened by fencing and landscaping on the sides. The other request is regarding building #2.
Zoning Board of Appeals
Selectmen’s Meeting Room – Town Hall

Minutes of June 6, 2019

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S. Skahill – developer. The footprint change is not really significant, the original approved plans showed a single stall garage and we would like to increase to a two stall garage. The positioning of the garage is swapped to the other side of the dwelling, most proximate to Old Main Road.

G. Potamis made a motion to grant the administrative approval. E. Van Keuren seconded the motion.

Vote: 4-1 to grant. K. Foreman in opposition.
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Zoning Administrator: Noreen Stockman  

#021-19 Velonias, 154 Edgewater Drive East, East Falmouth – special permit to raze and reconstruct single family dwelling  

R. Dugan read the ‘Notice of Public Hearing’ into the record and read the following referrals:  

Engineering – stormwater management comments  

ConCom – this project received an Order of Conditions on 5/15/19, no further comments  

Health – the proposed house is the same as existing, there are 3 bedrooms and a finished basement, as long as the area in the basement isn’t used as a bedroom, there is no increase in wastewater flow. Keeping old cesspool is fine as there is no increase in flow. Proposed footprint vs. existing doesn’t negate area from reserve septic system replacement. BOH requires reserve area be shown on the plan prior to signing off on the building permit.  

Water – has existing 1’ service line  

**Correspondence:**  

1 letter in file with comments regarding a right-of-way access  

Kevin Klauer is representing the applicant. The applicants are here to seek approval for the raze and reconstruct of the single family structure. The lot is 15,000s/f in RC zoning, a portion of the house is in the AE13 flood zone. There’s an existing 1-story dwelling with a footprint of 1,984s/f. The dwelling is nonconforming to the side yard setback at 3.7’ and non-conforming to the 3’ contour line at 27’ where 50’ is required. The existing ridge height is 16’. There will be a slight increase in square footage. The applicants are looking to re-build a new 3 bedroom house which will be compliant with flood zone standards and will be in substantially the same footprint as the existing house. This meets the criteria in 240-216. The lot coverage by structures will be 14.1%, proposed ridge height will be 25’. I have reviewed the letters submitted by an abutter regarding the right-of-way. This was granted years ago, and it’s not the responsibility of the owners to clear and maintain.  

**Board Questions:**  

G. Potamis – How does a person have a right-of-way and not have to maintain it?  

K. Klauer – There is no affirmative obligation to clear and maintain that area by the owners.
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Zoning Administrator: Noreen Stockman  

K.Foreman – You are 3.7’ from the Northerly property line and it’s to remain. What would stop you from conforming to a 10’ setback?  

K.Klauer – Partly due to the 3’ contour line, and the house as it exists, provides them with a beautiful view.  

K.Foreman – It seems like you could have moved it a couple of feet.  

K.Klauer – That would cause some substantial changes to the lot and we would have some issues with ConCom. We were looking to avoid that.  

R.Dugan – The plans show a bath in the basement, are there any plans for finishing off the basement?  

K.Klauer – There is no intent to use the basement as a bedroom, it will be flood zone compliant.  

R.Dugan – Will it be partitioned off, or all open?  

Maria Velonias (owner/applicant) – There will be a utility room next to the bath, and the rest will be open as a family room and storage.  

M.Barry – The plans show a rinsing station, what is that?  

K.Klauer – An outside shower.  

T. Hurrie – Can you explain what is being done so that the house is flood zone compliant?  

K.Klauer – The base elevation of the basement will be at 14’.  

T.Hurrie – The overall height is proposed to be 25’?  

K.Klauer – Yes.  

K.Foreman – To achieve flood zone compliance, how will you be doing that?  

M.Borselli(project engineer) – There is a minor lifting of the lower level and minor regrading; it’s just a small adjustment in the lower level to make it FEMA compliant.  

T.Hurrie – To remain 3 bedrooms?
K.Klauer – Yes and the septic will be for 3 bedrooms.

G.Potamis made a motion to close the hearing. E.Van Keuren seconded. Motion carried 5-0.

G.Potamis made a motion to grant special permit #021-19. Seconded by K.Foreman. Motion carried 5-0.

Findings:

1) Con Com approval
2) Board of Health ok with cesspool as long as the bedroom count remains at 3 bedrooms, and there is space provided for a future reserve septic system.
3) No bedroom are allowed in the basement; the proposed use to be a family room/storage
4) Lot coverage is below maximum allowed at 14.1%
5) Meets criteria in 240-3 C. and 240-216
6) Modest increase to height of structure at 25’
7) Flood zone compliant
8) Maintaining northerly boundary line at 3.7’
9) Enhances utilization of the property

Conditions:

1) Per plans
2) No increase in bedroom count
3) Reserve area to be shown on plans for future septic
4) As-Built by a Professional Land Surveyor to be submitted to the ZBA

All in favor.
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Zoning Administrator: Noreen Stockman

#023-19 Berube, 34 Ocean View Avenue, North Falmouth – special permit to construct additions to 1st and 2nd floor, and renovate porch space, exceeding 20% lot coverage by structures

R. Dugan read the ‘Notice of Public Hearing’ into the record and read the following referrals:

Engineering – standard comments with a note that recommends adding drywells or rain garden for the roof area, make sure house number is visible from roadway, per section 99-1

Health – Property is in the New Silver Beach sewer service area

Wastewater – 3 bedrooms is allowed in this sewer area, anything beyond that requires a variance from the Board of Selectmen. Note: they are keeping three bedrooms

Water – The water service need to be upgraded to at least 1”

Note: lot coverage comparisons were submitted

Steve Cook appeared with the owner and builder. Mr. Cook explained that the house was constructed in 1905. The house is not up to code and the layout is chopped up, we are looking to expand the living space into a portion of the porch, create a master bedroom on the 1st floor and addition on the rear, and rebuild the other portion of porch. There is a 4.4’ from North lot line and we are working in the same footprint where the porches are, the new addition will be 5.1’ away from the property line. Our lot coverage is increasing from 18.1% to 24.4% because of the new addition; we are staying at 3 bedrooms and on Town sewer. The ridge height in increasing to 33’ from 29-30’. We will add drywells, the house number, and upgrade the water line. One bedroom on the second floor will become a study.

Board Questions:

E. Van Keuren – Defiantly 3 bedrooms?

S. Cook – Yes.

E. Van Keuren- The original application was for 4 bedrooms.
S. Cook – We took out one of them and changed to study.

K. Foreman – I’m confused about the ridge height.

S. Cook – It’s on the elevation page A2 32′ 11 ¾”

K. Foreman – Is that from grade?

S. Cook – Yes, under the maximum.

G. Potamis – Are you in the flood plain?

S. Cook – No.

G. Potamis – On the existing plans the deck is shown at 1.1’.

S. Cook – Yes.

G. Potamis made a motion to close the hearing. E. Van Keuren seconded the motion. Motion carried 5-0.

R. Dugan made a motion to approve special permit #023-19. E. Van Keuren seconded the motion. Motion carried 5-0.

Findings:

1) meets 240-3 C., 240-69 E. and 240-216
2) ridge height increase to 32′11 ¾”
3) lot coverage increase from 18.1% - 24.4%; falls in mid range of properties
4) no increase in bedrooms; staying at 3
5) property serviced by New Silver sewer
6) increases utilization
7) no new nonconformities being created
8) applicant will take measurements for storm water runoff
9) house number to be visible upon completion
10) water service upgrade to 1”

Conditions:
Zoning Board of Appeals  
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1) per plans
2) 3 bedroom limit, due to sewer service area
3) Study on second floor shall have a 4-foot cased opening.

All in favor.
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#024-14 Romiza, Trustees 8 Worcester Avenue, Falmouth – special permit to raze and reconstruct detached cottage  

R.Dugan read the ‘Notice of Public Hearing’ into the record and read the following referrals:  

Con Com – flood zone AE13; will have to file an administrative review application with Conservation, to make sure storm water is maintained on site. Accessory structure should be flood compliant at 1 foot above flood zone.  

Water – Installed new service in 2017-2018, owner should upgrade line to 1”  

Correspondence – 1 letter with concerns from abutter  

Kevin Klauer is representing the applicants. They are looking to raze and rebuild the cottage to the rear of their lot. The lot is 3,039 sq ft. of RC zoned land. There is a single family dwelling with an accessory structure. The lot is non-conforming in many ways, 4.5’ from the front property line, side yard setback from the dwelling is 3.6’ and the side yard setback from the accessory structure is 1.6’. The lot coverage by structures is 36.4% and the total coverage by structure/parking/paving is 51.4%. The applicants are trying to generate more storage space which is the purpose of this. The cottage will be in the exact same footprint and the upper level will be storage. The ridge height is 21’.6”. Meets criteria of 240-216. We reviewed the referrals and correspondence. Engineering noted that the plans should be stamped by a PLS, the ones that were submitted are stamped by a PLS, I believe that they were reviewing a PDF which was not stamped. The applicant is amenable to the typical conditions for drywells at the direction of the Engineer. In regards to the letter from the abutters at 5 Montgomery Court they are claiming a discrepancy in the lot line. I asked our engineer to review this. We both feel that this letter doesn’t offer anything that would lead us to believe there was an issue with the lot lines. There were bounds found. Their other concerns were rooftop runoff and excavations. This will be on a slab, so there will be little excavation, and the roof will be substantially as it exists now.  

Board Questions:  

G.Potamis– Is Worcester Ave. perpendicular to Worcester Ct.? 

9
K. Klauer – This fronts on it.

G. Potamis – So this is a public way, I thought that I read on the plans it was private.

K. Klauer – That’s correct, it says private on the plans, that’s incorrect.

K. Foreman – Why couldn’t the setbacks be improved?

K. Klauer – They can’t come any closer to the septic system and in order to leave a walkway between the two structures, there really is no room to shift.

K. Foreman – No change to lot coverage, correct?

K. Klauer – Correct.

K. Foreman – Is this structure higher than the existing?

K. Klauer – Yes, the existing is 13’2” and proposed is 21’6” because they are adding an upstairs.

K. Foreman – No changes to the main house, correct?

K. Klauer – Correct.

R. Dugan – The main house had a previous special permit and on that application there is a plot plan that doesn’t match the current plan. You could review that plan, the discrepancy has to do with lot coverage and boundary lines. If this was approved how to you build without going on an adjacent property?

K. Klauer – Carefully. I don’t know that answer but I know that we have had properties likes this before.

R. Dugan – Maybe you can submit something that explains how it’s done and more details on storm water management. The elevations show a slab, but it looks like it’s on sono tubes. Where is the entrance? Do you have to step up and into the structure?

K. Klauer – Yes it looks like you have to step up and in. The doorway doesn’t show on the plans either, it’s confusing. They can give us some more details on that. They won’t be coming any closer to the septic.
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Zoning Administrator: Noreen Stockman

R.Dugan – When they do the construction schedule, I’d like to know how they handle the equipment going over the septic, where it’s so close.

M.Barry – Are there gutters?

K.Klauer – No, I don’t believe there are, but I will check with the applicant.

M.Barry – The roof is higher, more runoff, close to the other garage, you may consider adding them.

R.Dugan – This is in a flood zone, will it have to be raised?

K.Klauer – I don’t believe so, I think it meets the standards.

R.Dugan – You may want to check on that, where it’s in ConCom’s referral.

G.Potamis – How do we resolve the issue between the original plan and the current one?

R.Dugan – They are both certified, but I don’t know what the correct one is and why they are different. Wasn’t that an issue from one of the abutters?

K.Klauer – I haven’t seen the previous special permit or the plan, but I spoke with our engineer. There were bounds found at the site.

G.Potamis – How old was the original plan?


Public Comment

Manny D’Ambrosio (representative to abutter at 5 Montgomery Ave.) – The back of her property abuts this property. There are 2 plot plans; one submitted by us, and one by the applicants. There is a major disparity in the lot lines between the proposed cottage and our garage. Building to building is 5.1′; you only have 4.4′, and that is where the discrepancy is. There is a 25% difference in those two dimensions. A detailed foundation plan should be provided prior to approval. The concern of the construction requirements, including excavation, are also concerning.
G. Potamis made a motion to extend the 2 minute public comment time. K. Foreman seconded the motion. All in favor.

M. D’Ambrosio read regulations into the record, and presented a packet to the Board.

G. Potamis – Under what authority are we supposed to accept surveyed plot plans from what the abutter submitted versus what is proposed?

M. D’Ambrosio – The 5 Montgomery Ave plan has been filed with Barnstable County Registry of Deeds in 2003.

R. Dugan – Do you know what the length of the roof overhang is to the lot line, the garage on your sister’s property? Where you both have an overhang; there is going to be a lot less room. I’m trying to figure out what the work area is.

M. D’Ambrosio – You would end up with 4’ of overhang, 2x2.

G. Potamis – Would your client be willing to cut the depth by a foot to 11.3’?

K. Klauer – I can’t answer that now.

K. Foreman – I was going to suggest it for both dimensions, down size it a little. It’s a tight fit.

G. Potamis – I suggest a 1’ decrease.

K. Klauer – I will discuss with my client. The building there is in the same shape as they are proposing. It is not substantially more detrimental that what is there now.

K. Foreman – There is a pergola on the elevation, is that in addition to the 20%.

K. Klauer – I would think so but don’t know if that would count to lot coverage. I can ask the Building Commissioner.

R. Dugan – Is it going to be a metal roof? My guess is that’s why they didn’t use gutters.

K. Klauer – I will check. We are also not required to have construction level plans at this point. I would ask that we not be require to provide them. I can give the information to our engineer, but if he is stamping a plan, I have a hard time believing that plan is not accurate.
Zoning Board of Appeals  
Selectmen’s Meeting Room – Town Hall 
-Minutes of June 6, 2019

Members Present: Terrence Hurrie (Chairman), Kenneth Foreman (Vice Chairman), Robert Dugan (Clerk), Edward Van Keuren (member), Gerald Potamis (member), Mary Barry (associate) and James Morse (associate) 
Zoning Administrator: Noreen Stockman

R.Dugan – We currently have 3 separate plans. You may want to look at all 3.

E.Van Keuren – What kind of foundation is existing?

K.Klauer – I think it’s on a slab. I will confirm. That’s some information we will come back with.

K.Foreman made a motion to continue # to June 27th at 6:30 PM. R.Dugan seconded the motion. Motion carried 5-0.

Board took a 5 minute break.

Open Meeting:

1) Minutes of May 30, 2019 – tabled

5) #115-18 Woods Hole Partners LLC, 533 Woods Hole Road, Woods Hole – The Board discussed proposed findings, conditions and language of the draft decision.

G.Potamis made a motion to continue and review the decision on June 13, 2019. E.Van Keuren seconded the motion. Motion carried 5-0. All in favor.

6) Board updates

N.Stockman – There is a meeting at the High School at 7:00 PM for a community forum regarding treatment centers and sober houses.

G.Potamis – Do we have a date for the workshop?

T.Hurrie – We haven’t set one yet. We will get it done soon. Get to Noreen about possible dates for Saturday mornings and suggest agenda items.

7) Recodification Committee – no new news

8) Future Agenda Items – none

Meeting adjourned 8:45 PM

Respectfully Submitted,

Ashley DeMello, Office Assistant