

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 023-17 – Modification of Special Permit 69-03

APPLICANT/OWNER: The Resource Inc. for Community and Economic Development
of Falmouth, MA

SUBJECT PROPERTY: 550 Teaticket Highway, Teaticket, Massachusetts
Assessor's Map: Map 34, Section 04, Parcel 032, Lot 003

DEED/CERTIFICATE: Book 29588 / Page 334

SUMMARY: Modification of Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of April 4, 2017, the Applicant applied to the Zoning Board of Appeals for a Modification of Special Permit #069-03 pursuant to M.G.L. Chapter 40A and Section(s) 240-57 D. of the Code of Falmouth to construct five (5) duplex housing units with a community building and amenities on a 6.34 acre parcel with twenty-eight (28) existing rental units known as Clipper Ship Apartments at 550 Teaticket Highway, Teaticket, MA.
2. Notice was duly given as required by Section 11 of Chapter 40A, M.G.L., as well as notices sent to all persons deemed to be affected thereby as they appear on the tax list, and at which hearing, at the Board's discretion, relevant and appropriate testimony was heard.
3. A duly advertised public hearing was opened on June 1, 2017.
4. The public hearing was terminated on July 6, 2017, wherein the Board consisting of Chairman Kimberly Bielan, Vice Chairman Kenneth Foreman, Clerk Terrence Hurrie, Member Ed Van Keuren and Associate Robert Dugan (sitting as voting member) made a decision to Grant the modification of previous Special Permit with conditions. Minutes of the hearing(s) are on file in the Board of Appeals.
5. The Applicant, Michael Galasso on behalf of TRI, was present at the hearing as well as the project engineer Joel Kubick, P.L.S. with Holmes and McGrath, Inc., who reviewed and discussed proposed plans with the Board.
6. The Board received documents and information prior to and during the public hearing that are on file in the office of the Board of Appeals at Town Hall, as set forth below:

Letters/E-mails from Abutters/Interested Parties

04/25/2017 John Alves of 570 Teaticket Highway, abutter and previous owner of Clipper Ship Apartments on subject property, submitted a history of subject property, agreements relative to Clipper Ship apartments and a list of police calls to said property

05/30/2017 John Alves of 570 Teaticket Highway submitted a copy of Chapter three “King Phillip” and excerpts from a book by Grafton L. Briggs on King Phillip

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

04/04/2017 Joel Kubick submitted, on behalf of the Applicant, the application, plans, fee, authorization and a letter dated March 30, 2017 with stormwater calculations for the proposed project attached

06/01/2017 Joel Kubick submitted at the hearing, on behalf of the Applicant, a copy of an “Amendment of Agreement (Amendment #2)” between A. John and Mary Alves and the Town of Falmouth regarding subject property – document was filed with the Registry of Deeds – Bk 19497 / Pg 212

06/02/2017 Joel Kubick submitted, on behalf of the Applicant, a copy of “Amendment #1” to the Agreement between the Alves and the Town (Board of Selectmen) – document was filed with the Registry of Deeds – Bk 18999 / Pg 248

07/06/2017 Joel Kubick submitted at the hearing a brochure on ‘Poured in Place Rubber: Aliphatic’ as information for a suggested surface in the Play Area proposed

Letters/Referrals/E-mails from Town Departments

04/04/2017 ZBA staff submitted a copy of Special Permit #069-03 – the proposed project herein is a modification of this Special Permit

04/05/2017 Referral submitted to the file by Director of Assessing with no comment

04/10/2017 Referral submitted to the file by the Planning Department Staff that states: *Currently before the Planning Board. Application for Site Plan Review continued to 4/11/2017*

04/20/2017 Referral submitted to the file by the Falmouth Fire Rescue Department that states: *Turning Radii approved through Site Plan Review*

05/08/2017 Referral submitted to the file by the Town Engineering Department with standard comments and additional comments relative to their referral to the Planning Board (which they attached to the referral as well) vs. what is submitted to this Board

06/06/2017 E-mail from Frank Duffy, Town Counsel, responding to a request via e-mail from the Zoning Administrator for an opinion on the Amendments to the Agreement between the Alves and the Town

Plans submitted by Applicant/Applicant’s Representative

“Proposed Light Fixtures Clipper Ship Apartments Site Plan Review” drawn by Studio 2112 Landscape Architecture – Page 1 dated March 7, 2017 with a Board date ‘received’ stamp of April 4, 2017;

“Overall Site Plan Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway in Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 1 of 14 dated February 8, 2017 with a final revision date of 6/28/2017 – stamped and signed by Joel R. Kubick, P.L.S. and Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of June 30, 2017;

“Site Layout Plan Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 2 of 14 dated February 8, 2017 with a final revision date of 6/8/2017 – stamped and signed by Joel R. Kubick, P.L.S. and Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of June 30, 2017;

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“Drainage System Layouts Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 7 of 14 dated February 8, 2017 with a final revised date of 3/30/2017 – stamped and signed by Joel R. Kubick, P.L.S. and Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of April 4, 2017;

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“Ruck Filter Details – Building #15 Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 12 of 14 dated February 8, 2017 with a final revised date of 3/30/2017 – stamped and signed by Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of April 4, 2017;

“Septic System Details – Building #15 Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 13 of 14 dated February 8, 2017 with a final revised date of 3/30/2017 – stamped and signed by Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of April 4, 2017;

“Erosion Control Plan Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 14 of 14 dated February 8, 2017 with a final revised date of 3/30/2017 – stamped and signed by Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of April 4, 2017;

“Clipper Ship Expansion 550 Teaticket Highway East Falmouth, MA” plans drawn by Christopher T. Wise – Architect consisting of Drawings A-01 through A-03 dated December 21, 2016 with a final revised date of June 20, 2017 and with a Board date ‘received’ stamp of June 30, 2017; and

“Clipper Ship Apartments Falmouth, MA” plan drawn by Kit Wise Architect Drawing L1.0 ‘Planting Plan’ dated 3/6/17, ‘Phase 2 Development - Parking Summary’ plan not dated and ‘Community Center’ plan not dated – all drawings with a Board date ‘received’ stamp of April 4, 2017.

Hearing – June 1, 2017:

The Board discussed plans with Michael Galasso of The Resource, Inc. (TRI) and Joel R. Kubick, P.L.S. with Holmes and McGrath. Mr. Galasso explained Phase I of the Clipper Ship Apartments development approved in Special Permit #69-03 (2003), after approval from Town Meeting in 2001 to rezone the property as Light Industrial A. A deed restriction was placed on the property restricting the use of the 7 acre parcel for multi-family units. The restriction stated there would be 30 affordable units and 12 market rate units (for a total of 42 units) – all rentals; this was based on the 7 acre parcel. Mr. Galasso stated since the subdividing of the properties done by the developer, the land used for multi-family units has decreased to 6.3 acres, thus reducing the number of units to 38. He explained that Phase I was constructed with 28 units and Phase II as proposed herein is for 10 additional units – 8 being affordable units, for a total of 28 affordable units and 10 market rate units on subject property. Mr. Galasso reviewed the amenities proposed in the form of a 2,000 square foot community room that will have a computer room for kids, a management office, a kitchen that will have cooking classes to teach healthy eating to residents, a counseling room, bathrooms and an outdoor play area and community garden.

James Joyce of 2112 Studios reviewed the proposed landscape, lighting and driveway for the project that included screening for abutters, gravel turnaround area, dumpster location and screening, snow removal storage area and parking.

Joel Kubick, P.L.S. of Holmes and McGrath, Inc. review the proposed septic noting that the market-rate units will have denitrification systems and the affordable units and the community building will be serviced by Title V systems. He reviewed where rain gardens were proposed throughout the site and how parking areas will be pitched to proposed drainage areas.

Kit Wise, Architect, reviewed the proposed ‘Cape Cod’ style buildings that will all be handicap visitable with two of the units, as well as the community building, will be handicap accessible. The buildings will be one and two story structures and will consist of five (5) duplex buildings with two-bedroom units - all will have a front porch area and have clap board and shingle finishes. The community building will have a front entry and will have access to the play area and community garden from inside said building. The proposed surface of the multi-sport area will have a hard surface, the play area will probably have a recycled rubber product – no grass.

Michael Galasso reviewed the proposed solar array that will be located at the most northerly end of subject property. He stated that the solar array will be strictly used to reduce the cost of electricity for the units on subject property and any generated power will not be sold back to the grid. He explained that there will be an on-site manager on a daily basis. The community building was situated as proposed to allow a visual line of traffic in and out of the development to better oversee the area and residents.

Board had questions regarding drainage – proposed and existing, bus shelter, bike racks, management of development, management/maintenance of drainage, lighting and mail delivery for residents.

Chairman Bielan asked for any public comment in support or opposition of the proposed project.

Betsy Zimerli of 59 Coonamessett Circle spoke in support of the proposed modification to add 10 units to existing site stating that they took into consideration handicap and have two handicap accessible units.

John Alves of 570 Teaticket Highway stated concerns about screening – especially along Broken Bow Lane, number of handicap spaces on site, maintenance of sidewalks and drainage. He said the back area of the property has been used by homeless people and dirt bikes.

Mr. Galasso stated he would look into the screening along Broken Bow Lane, handicap parking, will improve the bus shelter and review drainage.

Board reviewed information Applicant should submit a week before next hearing: lighting shields, elevation from mean grade, opinion from Town Counsel on the Amendment of Agreement, bus stop, management team and condition of existing catch basins.

Member Foreman made a motion to continue the hearing to July 6, at 6:30 PM. Member Van Keuren seconded the motion. Motion carried 5 – 0.

Hearing – July 6, 2017:

Michael Galasso reviewed the proposed plan and reviewed the concerns/questions Board had a previous meeting. He explained that the height of proposed two-story units is 24', the one-story building is 19' and the community building will be 20' in height; that there would be an electric car charging station within the development; the affordable units will be located within Buildings #11, 12, 13 and 14; the market rate units will be in Building #15; the trash and recycling will have an enlarged enclosure (double the current size); the current lighting will be improved to be similar to the proposed new lighting shown on the "Proposed Light Fixtures" plan submitted to the file (4/4/2017); and the snow removal area is show on the plans. He reviewed the landscape plan and said they are proposing a bus shelter near the corner of Teaticket Highway (shown on plan) that will be similar to the one in front of the Dunkin Donuts near Davisville Road. On the solar panels he explained that each panel will generate approximately 30 kilowatts which will total with all panels included approximately 15,300 kilowatt hours per month which will be close to 44% of the power needs of the development units.

Joel Kubick reviewed the drainage on existing portion of the development and said that the catch basins will be cleaned out as necessary which should resolve issues that were stated by at previous hearing.

Board asked questions regarding the solar array and how it is allowed in this zoning for this development. Michael Galasso stated it will be for use to the units only and no electricity generated will be sold back to the grid or anyone else. The Board discussed it as an accessory use to the primary use on subject property.

Board suggested adding speed bumps in the driveway before the community building and after the playground area to ensure slow speeds by vehicle traffic. Mr. Galasso agreed and also noted that there is a proposed crosswalk across the driveway after Building #10 and before the community building as well as one just after the community garden and before Building #11.

Board discussed existing drainage on site and asked if the Applicant is amenable to submit a maintenance agreement with schedule for all the catch basins on subject property. Mr. Galasso agreed.

Member Van Keuren made a motion to close the hearing. Member Foreman seconded the motion. Motion carried 5 - 0.

Chairman Bielan closed the hearing.

FINDINGS

The Board of Appeals, after carefully considering all of the facts and evidence submitted at the hearing, makes the following findings:

The subject property located at 550 Teaticket Highway in Teaticket contains 6.3 acres of Light Industrial A zoned land that is located within the Great Pond Coastal Pond Overlay District. The Applicant is requesting a Modification to Special Permit #69-03 pursuant to Section 240-57 D. of the Code of Falmouth to allow for the construction of ten (10) additional units – eight (8) units to be rented as affordable and two (2) units to be market rate rentals. The subject property received approval under Special Permit #69-03 in 2003 to construct as Phase I, twenty-eight (28) units, twenty (20) of which are affordable rentals and eight (8) are market rate rentals. Condition #4. of Special Permit #69-03 requires that the twenty (20) affordable units shall be rented to households with an income of 80% or less of the Barnstable County median income and that the project shall be monitored by Falmouth Housing Authority; and that the affordable units shall be segregated and not indistinguishable from other units. Further, Condition #1 of the decision acknowledges a Phase II of the project based on the deed restriction between the Town and the then application.

Section 240-57 D. of the Code of Falmouth – ‘Special Permit uses’ in a Light Industrial A zoned district allows multi-family units if the Board of Appeals finds that the public good will be served; that the industrial zoned area would not be adversely affected, and that the uses permitted in the zone would not be noxious to a multifamily use. The bylaw further states: *The density of any approved proposal shall not exceed six units per acre.*

The Board finds that in 2001 the original developer submitted an article to the Fall Annual Town meeting to rezone this seven (7) acre parcel from Agricultural B to Light Industrial A zoning and develop the property for multi-family housing; the developer then prepared an Agreement that he and the Town signed stating that the project would have no less than thirty (30) affordable units and no more than forty-two (42) total units on said property – the Article passed Town Meeting and the developer then applied for a Special Permit to construct twenty-eight (28) units (Phase I). In August 2004 an Amendment was made to the Agreement – Amendment #1 - that both the developer and the Board of Selectmen signed – the amendment had no significant changes. In 2005 there was an Amendment #2 to the Agreement that was approved and signed by both the Selectmen and the developer that changed the language of the Agreement from “# of units” to “not less than seventy percent (70%) of total units shall be affordable..... the balance remaining may be market price units.” The amendment did not mention any certain number of units. Based on Amendment #2, the Applicant is required to adhere to the original stipulation of forty-two (42) units. The Board further finds that the original Agreement was based on a parcel with seven (7) acres at no more than six (6) units per acre. That is not the case at the time of this modification as the lot is now 6.3 acres. The decrease in the amount of land changed through subdivision of the original parcels which included abutting property. Furthermore, the Board finds that the intent of the zoning change in 2001 to Light Industrial A for subject property was to allow

for multi-family dwellings, which in fact is the use, existing and proposed and therefore appropriate for approval of this modification request and promotes Town meeting's objectives respect thereto.

The Board finds that there will be no more than thirty-eight (38) dwelling units on subject property and that no less than twenty-eight (28) of the said units will be rented to households earning no more than 80% of the median household income according to statistics as published by DHCD for Barnstable County. The Board further finds, according to Special Permit #69-03, that the existing affordable units (20 existing) on site are conditioned to be affordable in perpetuity; the eight (8) units proposed in this modification shall also be deemed affordable in perpetuity thereby bringing the affordable rental units on subject property, to be rented to households earning no more than 80% of Barnstable County median income, to twenty-eight (28) units. Furthermore, the Board finds that the Applicant will be held to, and shall not derogate, from any conditions set forth in Special Permit #69-03, except as stated herein.

The Board finds that the proposed additional units, along with the community building, community garden, play area and improved lighting and landscaping will be a definite enhancement to the subject property and will create additional units for eight (8) households that earn no more than 80% of the Barnstable County median income and two (2) additional work force housing. The Board further finds that the additional amenities in the form of the community building, community garden and play area will be for all residents on subject property and will create an improved utilization of the property for said residents. Furthermore, the Applicant proposes an on-site manager that will oversee the daily use of the community amenities within the development as well as an added security for the development that currently does not exist.

The Applicant has proposed, as shown on the plans noted herein, a solar array at the northerly most portion of the property and the Board finds through testimony by the Applicant that the power generated from the solar array will be shared and distributed among all the units and will not be sold back to the grid. The Board further finds through testimony by the Applicant, the solar array may generate up to 44% of the power for subject property and its uses. Furthermore, the Board finds that the proposed solar array that the units on subject property will benefit from is an accessory to the primary use as a multi-family development and therefore allowed as an accessory use in this Light Industrial A zoned district.

The Board finds that the Applicant has been amenable to suggestions made by the Board through the hearing process and have agreed to add no less than two (2) speed bumps within the development that will be located approximately 40 feet (40') before each crosswalk on subject property (see Sheet 4 of 14 "Site Grading Plan" for crosswalks). The Board further finds through testimony by the Applicant, that the development will retain a firm to maintain drainage throughout the development as existing and proposed to ensure that all stormwater runoff will be maintained on site; the Applicant is amenable to submitting a copy of said agreement, when finalized with a firm, to the Board of Appeals.

The Board finds through testimony and plans submitted and noted herein that the Applicant is proposing rain gardens and catch basins to maintain all stormwater runoff on-site; and the Applicant has stated that they will review and repair, if necessary, the drainage and catch basins of the existing portion of the development as abutter stated at the hearing that waters from the development run onto his property. The Board further finds that the proposed amenities, parking and new dwelling units will be landscaped as shown on the plans submitted "Planting Plan" - Drawing L1.0.

The Board finds through testimony that the Applicant is amenable to additional landscaping as a screen and/or buffer at the westerly side yard property line, abutting Broken Bow Lane. The screening/buffering shall begin approximately across from the proposed community building northerly along the westerly side yard property line just past the proposed 'Proposed Gravel Turn Around'.

The Board finds that the parking proposed for Phase II of this development, as discussed herein, is appropriate for the community building, playground area, multi-sport court, community garden and all units as shown on the "Phase 2 Development Site Plan" – 'Parking Summary' with a Board date 'received' stamp of April 4, 2017.

In addition to the above findings, the Board finds that the proposed modification of previous special permit discussed as Phase II of the development will be in harmony with the general purpose and intent of this chapter and does include consideration set forth in Section 240-216 of the Code of Falmouth as follows:

A. The site is adequate in terms of size for the proposed additional ten (10) units and community buildings and amenities as the additions will not create any nonconforming setbacks or lot coverage and will be an enhancement to the development.

B. The site is suitable for the proposed use as the property is zoned Light Industrial A and was voted at a Town Meeting in 2001 to be use for multi-family residential.

C. There will be no impact on traffic flow and safety as the additional ten units added to the existing twenty-eight (28) units is considered minimal and shall slightly impact the traffic onto Teaticket Highway; and there is no change in the location of the existing driveway on site. Public safety within the development off the driveway will be enhanced with new crosswalks and speed bumps as conditioned herein.

D. The visual character of the subject property will be improved and there does not appear to be any impact on the neighborhood's visual character; and there is no impact on any view or vista from the roadway or abutting properties.

E. The sewage disposal system for the proposed eight (8) additional affordable units will be serviced by Title V septic system(s) and the two (2) market rental units will both be serviced by an alternative system – all septic systems installed shall be reviewed for approval by the Board of Health and prior to issuance of a building permit.

F. There are adequate utilities to subject property by virtue of existing units on the property, however, the Applicant will be required to pull appropriate permits with the appropriate departments for additional utilities on subject property.

G. The proposed modification to the existing special permit discussed and represented herein will have an effect on the supply of affordable housing in Falmouth, however the additional and existing affordable units on subject property does not count towards Falmouth Housing Inventory.

H. There was a Site Plan Review Decision submitted to the file and the Board took into consideration its conditions.

I. The application is within compliance of all applicable sections of the zoning bylaws as represented, except for the nonconformities stated herein.

J. The approval of this special permit does not include any affordable housing that will count on the Town's Housing Inventory, however, eight (8) of the units approved herein will be rented to households earning no more than 80% of the median income for Barnstable County.

The Board of Appeals has weighed the effects of the proposed modification to Special Permit #69-03 at 550 Teaticket Highway in Teaticket as discussed herein and finds that the beneficial effects of granting

this permit outweigh any negative effects there may be. The Board further finds that the granting of this permit will be in harmony with the purpose and intent of the Zoning Bylaw.

Member Bielan made a motion to Grant the Special Permit with conditions. Member Van Keuren seconded the motion.

NOW THEREFORE

1. **BE IT RESOLVED**, that the Board of Appeals (herein referred to as Board) being of the opinion aforesaid and acting under the provisions of the Code of Falmouth voted **5 – 0 to Grant the Special Permit as Modification of Special Permit #69-03** to The Resource Inc. for Community and Economic Development (herein referred to as Applicant) under Section(s) 240-57 D. of the Code of Falmouth to construct five (5) duplex housing units with a community building and amenities on a 6.34 acre parcel with twenty-eight (28) existing rental units known as Clipper Ship Apartments at 550 Teaticket Highway, Teaticket, MA. This special permit is subject to the following conditions:

1. The proposed additions to the existing development consist of five (5) duplex buildings that will create ten (10) units (8 of the units designated as affordable units) as well as construction of a community building, community play area, community multi-sport court, community garden, lighting, parking, landscaping, crosswalks, drainage, septic systems and use of existing development shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

“Proposed Light Fixtures Clipper Ship Apartments Site Plan Review” drawn by Studio 2112 Landscape Architecture – Page 1 dated March 7, 2017 with a Board date ‘received’ stamp of April 4, 2017;

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“Septic Layout & Details – Building #15 Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 11 of 14 dated February 8, 2017 with a final revised date of 3/30/2017 – stamped and signed by Joel R. Kubick, P.L.S. and Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of April 4, 2017;

“Ruck Filter Details – Building #15 Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet

12 of 14 dated February 8, 2017 with a final revised date of 3/30/2017 – stamped and signed by Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of April 4, 2017;

“Septic System Details – Building #15 Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 13 of 14 dated February 8, 2017 with a final revised date of 3/30/2017 – stamped and signed by Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of April 4, 2017;

“Erosion Control Plan Clipper Ship Apartments” prepared for The Resource, Inc. #550 Teaticket Highway, Teaticket, MA as drawn by Holmes and McGrath, Inc., Sheet 14 of 14 dated February 8, 2017 with a final revised date of 3/30/2017 – stamped and signed by Raul Lizardi-Rivera, P.E. and with a Board date ‘received’ stamp of April 4, 2017;

“Clipper Ship Expansion 550 Teaticket Highway East Falmouth, MA” plans drawn by Christopher T. Wise – Architect consisting of Drawings A-01 through A-03 dated December 21, 2016 with a final revised date of June 20, 2017 and with a Board date ‘received’ stamp of June 30, 2017; and

“Clipper Ship Apartments Falmouth, MA” plan drawn by Kit Wise Architect Drawing L1.0 ‘Planting Plan’ dated 3/6/17, ‘Phase 2 Development - Parking Summary’ plan not dated and ‘Community Center’ plan not dated – all drawings with a Board date ‘received’ stamp of April 4, 2017.

2. There shall be no more than thirty-eight (38) dwelling units allowed on subject property.
3. Twenty-eight (28) of the proposed thirty-eight (38) units shall be rented to households earning no more than 80% of Barnstable County median income as published by DHCD. All twenty-eight (28) affordable units on subject property shall remain affordable units in perpetuity.
4. The Applicant will submit to the Board, prior to issuance of first occupancy permit for one of the ten units approved herein, a maintenance agreement for the drainage, existing and proposed, on subject property. The drainage shall always be maintained on site, with no runoff onto any adjacent roadway or abutting property.
5. The Applicant shall submit a final Landscape Plan that shows the additional screening/buffering of the westerly side yard property line (along Broken Bow Lane) northerly from the community building to just past the ‘Turn Around’ area (before solar panels) and the location for two (2) speed bumps as described in the above findings. The final Landscape Plan shall also show two (2) permanent outdoor trash cans, one (1) in the community playground area and one (1) in the community garden.
6. The Applicant shall locate a bus shelter near the corner of Teaticket Highway as shown on Sheet 1 of 14 entitled “Overall Site Plan” as approved and noted in Condition #1 above.
7. All power generated from the proposed solar array as shown on the plans noted in Condition #1 above shall be a benefit solely for the thirty-eight (38) units on subject property. Any

power generated from said solar array shall not be sold to any entity or individual; but shall remain strictly accessory to the primary residential units on subject property.

8. Any deviation, no matter how minor, from plans submitted and approved, orally or in writing, by this Board, shall be submitted to the Board for approval prior to implementation of said change. Minor changes may be administratively approved by the Zoning Administrator.
9. There shall be no derogation whatsoever from any of the Conditions set forth in Special Permit #69-03, except as stated herein.
10. The Applicant shall meet the requirements of the DPW Water Division.
11. This permit shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days has elapsed after the decision had been filed in the office of the Town Clerk with no appeal being filed, or an appeal has been filed within such time, is recorded in Barnstable Registry of Deeds. (Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.)
12. This permit shall lapse two years from the date on which this decision is filed in the Town Clerk's office if a substantial use of the Special Permit has not sooner commenced except for good cause as determined by the Board of Appeals.

Decision of the Falmouth Zoning Board of Appeals Continued:

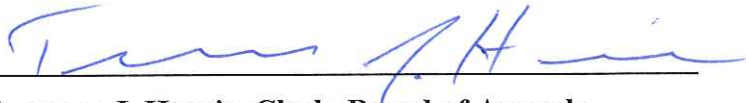
Special Permit Number: #023-17

Applicant: **THE RESOURCE INC. FOR COMMUNITY AND ECONOMIC DEVELOPMENT of Falmouth, MA**

Subject Property: **550 Teaticket Highway, Teaticket, MA
Map 34, Section 04, Parcel 032, Lot 003**

Action: The Board of Appeals, by the signature below, being present, certifies the vote of the Board as follows for the above referenced:

Vote: 5 – 0 to Grant the Modification of Special Permit #69-03 as represented herein as Special Permit #023-17 to the Board, based on the Findings stated herein and with the above stated Conditions.



Terrence J. Hurrie, Clerk, Board of Appeals

RECEIVED

AUG - 4 2017

FALMOUTH TOWN CLERK

JN@925am

Date Filed With Town Clerk

Notice is hereby given that any appeal from this Decision shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Falmouth Town Clerk.