

## FALMOUTH ZONING BOARD OF APPEALS

### FINDINGS AND DECISION

**SPECIAL PERMIT NO:** 091-17

**APPLICANT/OWNER:** BOGOSIAN DEVELOPMENT LLC of Falmouth, MA

**SUBJECT PROPERTY:** 661 Main Street, Falmouth, Massachusetts  
**Assessor's Map:** Map 47B Section 05 Parcel 012 Lot 000A

**DEED/CERTIFICATE:** Book 18583 / Page 216

**SUMMARY:** Special Permit Granted with Conditions

### PROCEDURAL HISTORY

1. Under a date of October 16, 2017, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. and 240-240 G. (1)(b) of the Code of Falmouth to construct a second floor addition creating seven (7) apartment units on the existing building on subject property known as 661 Main Street, Falmouth, 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 December 14, 2017.
4. The public hearing was closed on January 25, 2018, wherein the Board consisting of Acting Chairman Terrence Hurrie, Clerk Kimberly Bielan, Member Ed Van Keuren, Member Paul Murphy and Alternate Robert Dugan (sitting as voting member) made a decision to Grant the Special Permit with conditions. It was noted at the December 14, 2017 that Alternate Robert Dugan disclosed that he is an abutter within three hundred feet (300') and got Notice of Public Hearing. He stated he can be objective in reviewing the project. Minutes of the hearing(s) are on file in the Board of Appeals.
5. The applicant was represented at the hearing by Attorney Kevin P. Klauer II with Ament Klauer LLP, 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

- 11/27/2017 Letter submitted to the file from Gary and Margaret Sabens of 637 Main Street regarding meeting held with applicant at subject property discussing parking and right of way – in support of project

- 12/04/2017 Letter from Falmouth Track Club to Board of Appeals dated November 30, 2017 stating support of the proposed second floor addition of apartment at subject property
- 12/08/2017 Letter submitted to the file from Marcello Malta of Nye Road (not dated) stating he believes the proposed to be a good project
- 12/08/2017 Letter submitted to the file from Anytime Fitness on Main Street addressed to the Town of Falmouth, dated 12/8/2017, stating that the proposed additional apartments will be a good addition to Main Street
- 12/12/2017 Letter submitted to the file from Steve Hubbard of Hubbards Paint on Main Street dated 12/8/2017 to 'Whom it Concerns' stating support of the improvements and redesign to the building on subject property

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

- 11/16/2017 Letter from Attorney Klauer to Rod Palmer, Building Commissioner dated August 29, 2017 regarding use of premises by Aquatic Brewing LLC at 661 Main Street
- 11/16/2017 Email from Attorney Klauer to Zoning Administrator Budrow regarding response to questions on parking for subject property and size of office/retail spaces existing
- 12/12/2017 Letter to Mark Bogosian of Longfellow Design Build Inc from Thomas Galligan, PE with Fort Hill Companies LLC dated December 12, 2017 regarding his opinion of the addition of a second floor to the existing building on subject property
- 01/18/2018 Letter from Attorney Klauer dated January 18, 2017 to Zoning Administrator with attached revised plan(s) with a revision date of 1/3/18
- 01/23/2018 E mail from Attorney Klauer to Zoning Administrator with attached Land Court Decision regarding a 'right of way' – *'Aruda et al vs. Savery Chevrolet Co., Inc.'*
- 01/24/2018 Email from Attorney Klauer to Zoning Administrator of January 24, 2018 regarding delivery truck (from above photo – stuck in turning radii) and noting that he will submit revised plans showing improvement to parking lot on subject property
- 01/25/2018 Email from Attorney Klauer on January 25, 2018 in response to questions from Zoning Administrator regarding easement on subject property and parking on site from abutters
- 01/25/2018 Letter from Attorney Klauer dated January 25, 2018 he submitted to the Board at the 1/25/18 hearing with changes to the plans for discussion

**Letters/Referrals/E-mails from Town Departments**

- 10/17/2017 Referral submitted to the file from Director of Assessing with no comment

- 10/18/2017 Referral submitted to the file Planning Department staff noting: *Applicant is before Planning Board for Site Plan Review on 10/24/2017.*
- 10/20/2017 Letter from Falmouth Fire Rescue Department dated October 20, 2017 submitted as a referral regarding concerns for subject application (see file – 6 points)
- 10/23/2017 Referral submitted to the file from Water Department Superintendent stating: *Please see attached comments provided to Planning Board on 10/4/2017. Comments still apply.*
- 11/07/2017 Referral submitted to the file from Conservation Commission that states: *Did not see drainage control for proposal. Stormwater should be controlled on property to avoid adding or reducing onto Main Street.*
- 11/09/2017 Referral submitted to the file from Town Engineering Department, dated 11/9/2017, with attachment of review for Planning Board’s Site Plan Review – Note: Updated by Engineering on 12/6/2017
- 01/22/2018 Email from Zoning Administrator to Attorney Klauer with photos attached showing a semi-truck stuck in the parking lot of subject property unable to maneuver turn

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

**Plans submitted by Applicant/Applicant’s Representative**

“Proposed Second Story Apartments 661 Main Street in Falmouth, Massachusetts” as drawn on plans by Cape & Island Engineering: Sheet 1 of 4 ‘Cover Sheet’ with a final revised date of 11/28/17 stamped and signed by Matthew C. Costa, PLS and Raul Lizardi-Rivera, PE; Sheet 2 of 4 ‘Existing Conditions Site Plan’ with a final revision date of 3/23/18 (assume typo – s/be 1/23/18) stamped and signed by Matthew C. Costa, PLS and Raul Lizardi-Rivera, PE; Sheet 3 of 4 ‘Grading, Drainage & Utilities Plan’ with a final revision date of 1/23/2017 stamped and signed by Matthew C. Costa, PLS and Raul Lizardi-Rivera, PE; and Sheet 4 of 4 ‘Landscape Plan & Details’ with a final revision date of 3/23/18 (assume type – s/be 1/23/18) stamped and signed by Matthew C. Costa, PLS and Raul Lizardi-Rivera, PE – all Sheets have a Board date ‘received’ stamp of January 25, 2018;

“Proposed Second Story Apartments” as drawn by Cape & Island Engineering – Sheet 1 of 1 ‘Turning Movement (Box) 30 feet Box Truck’ dated January 22, 2108 with a Board date ‘received’ stamp of January 25, 2018; and

“661 main St. Falmouth, MA” plans as drawn by Longfellow Design Build consisting of Drawing A0.0 ‘Cover’ dated 9/28/17, Drawing A1.1 ‘Proposed First Floor Plan’ dated 9/28/2017, Drawing A1.2 ‘Proposed Second Floor’ dated 9/28/17 and Drawing A2.1 ‘Exterior Elevations’ dated 9/28/17 – all Drawings have a Board date ‘received’ stamp of October 16, 2017.

Hearing December 14, 2017:

Attorney Klauer reviewed the existing site that consists of 40,941 square feet of Business Redevelopment land that has an existing 9,000 square foot one-story building consisting of offices and retail space. The applicant is proposing to construct a second story to create seven (7) apartments, four one-bedroom and three two-bedroom units for a total of ten (10) bedrooms on site. Attorney Klauer reviewed the parking and explained that the applicant is currently before the Planning Board for Site Plan Review which includes a request for reduction in parking. He explained that the property is on Town sewer. He briefly reviewed Section 240-16 and how the proposed meets the criteria of said section and how the Town will benefit from the additional of seven (7) units in the downtown area.

The Board discussed plans with Attorney Klauer including the right of way on the westerly side of the property to Main Street, parking spaces designated for apartments, turning radius around building for loading dock for retail or brewery use and location and size of dumpster. Attorney Klauer responded to the parking and stated that there will be no designation for resident parking as the parking is based on shared use; the dumpster will remain at the southwesterly corner of the building and believes turning radius in front and around the building is appropriate.

Attorney Klauer was asked to address the concerns of the Town Engineer and Conservation Commission regarding drainage on site, landscaping and lighting. Attorney Klauer stated that the revised plans address the drainage concerns and the landscape plan shows wall lights all around on the building – there will be no light poles.

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

Courtney Bird with Falmouth Track Club that has an office on subject property stated that the club has maintained an office within the existing building since 2012 and he has witnessed firsthand the parking on site and feels that there is no parking issue. He further stated he believes the project to be a good project and he supports it and the facelift it will get through the proposed changes.

Board discussed the need for more information regarding truck turning or a modified plan to show a turnaround, more information on the easement and use of said easement on site, landscaping of driveway entrance and signage.

Member Van Keuren made a motion to continue the hearing to January 25, 2018 at 6:00 PM. Member Bielan seconded the motion. Motion carried 5 – 0.

Hearing January 25, 2018:

Attorney Klauer reiterated the application discussed at the December 14, 2017 hearing that was continued to this evening. He handed out a list of issues that were discussed at the previous hearing that he will touch on and noted that the applicant has also submitted revised plans that will be reviewed. Attorney Klauer noted the following: area behind building was changed from lawn to gravel to allow access as needed at the rear of the building; parking stalls to the north of the building were reconfigured from 10' x 18' to 9' x 18' (bylaw requirement); one parking space moved from east side of building to the north to allow for a truck turnaround area (number of spaces remain 26) - turnaround accommodates

a 30' x 8' box truck; the 8' right of way was granted by a 1967 Land Court case and the easement area was determined to be the area within 8' from the westerly property line; the area actually used for access is depicted on the plan (moved easterly); and there is no easement or license granting a right to access or park on subject property by others.

The Board asked questions on the landscape and prevention of parking on driveway access from Main Street to building, the size of the proposed dumpster and signage to insure no tenants of subject property use the easement and that abutters do not use subject property to park on. Attorney Klauer noted that some landscaping can be placed on driveway area to prevent parking on the driveway; he noted that the dumpster will be enlarged and applicant will monitor it for more pickups if necessary; and signage noting driveway and parking for subject property only can be placed near driveway.

The Board asked if the brewery on subject property (tenant) is a wholesale operation. Attorney Klauer stated it is retail sales only and explained the licensing requirement of the brewery. There will be no food service at the brewery and no intention to have outdoor seating.

The Board discussed their concern with the number of parking spaces proposed and lack of designated parking for the residents on subject property and asked the applicant if they are amenable to allow five (5) parking spaces designated for residents. The Board asked for consideration to eliminate one apartment unit, thus lessening the need for 1.5 parking spaces that may not be able to accommodate the traffic to the site. After discussion the applicant stated they are amenable to a condition of five (5) designated parking spaces for residents.

The Board discussed the delivery trucks to and from the site and the turning radius that the applicant's plan shows. The applicant is amenable to provisions in all new leases restricting all deliveries to and from the site to be conducted in trucks no larger than a 30' x 8' box truck.

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

Chairman Hurrie closed the hearing.

Board discussed the application and findings.

Member Bielan made a motion to direct the Zoning Administrator to draft a positive decision and bring it back to the Board for review and possible vote. Member Van Keuren seconded the motion. Motion carried 5 - 0. The Zoning Administrator will draft positive decision and return to the Board at an open meeting on February 8, 2018.

Open Meeting February 8, 2018:

Voting member Paul Murphy was absent, four members remain as a quorum.

The Board reviewed and discussed the draft decision as written.

Member Bielan made a motion to Grant the Special Permit with conditions. Member Van Keuren seconded the motion. Motion carried 4 - 0.

## 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 661 Main Street in Falmouth contains 40,941 square feet of Business Redevelopment zoned land that is not located within any overlay district. The applicant applied under Section(s) 240-3 C. and 240-240 G. (1)(b) of the Code of Falmouth to construct a second floor addition creating seven (7) apartment units to the existing building on subject property. The subject property is nonconforming with 51.3' frontage off Main Street, lot coverage by structures is 22.2% and lot coverage by structures, paving and parking is 61.6%. The subject property is served by Town sewer. The subject property has a prescriptive easement for abutters of 8' off the westerly side property line down to Main Street as set forth in a 1967 Land Court decision. The height of the building as proposed with a second story addition for seven (7) apartment units will become 24'. The exterior of the building is proposed to be white composite and stained cedar shakes. Drainage is being proposed. The applicant has gone before the Planning Board for Site Plan Review and parking reduction under Section 240-240 of the Code of Falmouth.

Section 240-3 C. of the Code of Falmouth allows the Board of Appeals to approve a special permit to extend, alter or change a pre-existing non-conforming structure or use if the Board deems said change is not substantially more detrimental than what exists.

The Board finds that the proposed second floor creating seven (7) apartment units to the existing building on subject property will not be substantially more detrimental than what currently exists as there is no increase in the existing nonconformity and there is no new nonconformity being created on said property. The Board finds that the proposed seven (7) apartment units (4 one-bedroom units and 3 two-bedroom units) will provide needed work force housing for the Town of Falmouth on subject property that has immediate access to public transportation, shopping, schools and downtown area of Falmouth. Furthermore, the Board finds that there will be no more than ten (10) bedrooms allowed on subject property through this special permit approval.

The Board finds through the plans that were submitted to the file that the existing site conditions will be greatly improved through this application for special permit. The Board further finds that the proposed signage, landscaping and striping of certain parking spaces will enhance and control the traffic flow and parking on subject property. Furthermore, the Board finds that the plans submitted for changes to the site conditions show additional drainage on site – see “Grading, Drainage & Utilities Plan” with a revision date of 1/23/18 and a Board date ‘received’ stamp of January 25, 2018.

Section 240-240 G. (1)(b) of the Code of Falmouth sets forth criteria for multifamily use of up to eight (8) units in this Business Redevelopment zoned district.

The Board finds that the proposed addition of seven (7) apartments to the building on subject property (2<sup>nd</sup> floor addition) meets the criteria of Section 240-240 G. (1)(b) as follows:

- The public good will be served through the proposed creation of seven (7) apartments as the Town is in need of affordable and/or workforce housing that this application will supply;
- The business area that subject property is located within will not be adversely impacted as there are other properties nearby that have second floor apartments above commercial/retail ground level space (approximately 7 properties within 500 foot radius); and
- The uses in the existing neighborhood or general area of subject property will not be noxious to the multifamily use proposed as it offers amenities that tenants will use possibly on a daily basis (transportation, shopping and Town amenities).

The Board finds that the subject property has a prescriptive easement for access to abutter's property along the westerly side property line and that said easement does not give rights to any abutters or other individuals to access or park on subject property. The Board further finds that the applicant is amenable to signage on the easement that notes said easement is private and not for public access.

The Board finds that the entrance onto subject property from Main Street is nonconforming at 51.3', that the lot coverage by structures is 22.2% and that the lot coverage by structures, paving and parking is 61.6% and that the nonconformities will be maintained as existing. The Board further finds through testimony by the applicant and the applicant's representative that the driveway will be landscaped on both sides of driveway and that such landscaping, by either plantings or fencing, will prohibit parking on the driveway. Furthermore, the Board finds that the applicant is amenable to landscaping the driveway turn into parking area on the easterly side of the building so that access from subject property cannot be made onto abutting property known as 667 Main Street; and that said abutting property cannot use subject property to access or exit said abutting property.

The Board finds that the plan shows twenty-six (26) parking spaces that includes one van accessible handicap space on the easterly side of the building. The Board further finds that the applicant was granted a parking reduction by the Planning Board under Section 240-240 J (1)(a) of the Code of Falmouth and that the parking spaces as shown on the most recent plan shown as Sheet 2 of 4 with a Board date 'received' stamp of January 25, 2018 show that the seven (7) parking spaces on the easterly side of the building will be striped, the fourteen (14) spaces at front of the building will have wheel stops as markings for spaces and the five (5) spaces on the westerly side of the building are not proposed as striped. Furthermore, the Board finds after discussion between the Board and the applicant that the applicant is amenable to designating five (5) of the parking spaces on the easterly side of the building as resident parking spaces.

The Board finds through testimony by the applicant's representative that the applicant is amenable to increasing the size of the existing dumpster onsite (approximately increase to a six yard dumpster) to accommodate additional trash by residents and tenants of the site; and to monitor said trash in the event additional pickups of trash is required in order to maintain trash in its receptacle.

The Board finds that the turning radius around the building on subject property is limited to a certain size of truck and that the applicant, through testimony by the applicant's representative, is willing to limit the size of delivery trucks to the site for any tenant or resident to a box truck that will be no larger than 30' x 8' in size (see "Turning Movement (Box) 30 Feet Box Truck" plan dated January 22, 2018 with a Board date 'received' stamp of January 25, 2018 in file). The Board further finds that the applicant, through testimony by the applicant's representative, is amenable to put language in the tenants' leases that any deliveries made to the site shall be delivered by trucks no larger than a 30' x 8'

truck; and until such time as a lease is renewed for existing tenants, the applicant will require existing tenants to comply with the delivery truck requirements as conditioned herein.

In addition to the above findings, the Board finds that the proposed 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 addition of seven (7) apartment units to the existing building that will not increase the existing footprint of the building, will not increase lot coverage on site and will not decrease the nonconforming lot frontage of subject property, and the proposed will not create any new nonconformities.

B. The site is suitable for the proposed additional use of apartments above existing commercial uses on subject property as the property is zoned Business Redevelopment and that the proposed is within the intent of the zoning district as set forth in Section 240-240 of the Code of Falmouth.

C. There will be an increase of traffic flow to the site through the creation of seven (7) apartments on subject property, however the plans submitted showed improved landscaping, driveway access, signage and improved parking for the additional use on said property; the location of the driveway remains the same off Main Street but will be enhanced by landscaping to improve said entrance.

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 as there are several houses in the surrounding area that have been improved such as this; and there is no impact on any view or vista from the roadway or abutting properties.

E. The subject property is served by Town sewer.

F. There are adequate utilities to subject property by virtue of an existing building on site; and the applicant will be required to apply for certain permits with appropriate Town Departments for the changes to the site approved herein.

G. The proposed creation of seven (7) apartments on subject property as discussed and represented herein may have an effect on the supply of affordable housing in Falmouth, however said apartments will not be included on the Subsidized Housing Inventory.

H. There was a Site Plan Review Decision for the proposed project as required by the bylaw, which included Parking Reduction. A copy of the Site Plan Review Decision was submitted to the file for the Board's review.

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 include seven (7) apartments that may be considered affordable and/or workforce housing (see G. above).

The Board of Appeals has weighed the effects of the proposed second floor addition of seven (7) apartments to the existing building on subject property 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.

### **NOW THEREFORE**

**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 **4 - 0 to Grant a Special Permit** a Special Permit to Bogosian Development LLC (herein referred to as Applicant) under



Section(s) 240-3 C. and 240-240 G. (1)(b) of the Code of Falmouth to construct a second floor addition creating seven (7) apartment units to existing building on subject property known as 661 Main Street, Falmouth, MA. This special permit shall be subject to the following conditions:

1. The construction of the second floor to the existing building, floor plan of seven (7) apartments, lot coverage, setbacks, parking, drainage, height of building and use of building as proposed shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
  - "Proposed Second Story Apartments 661 Main Street in Falmouth, Massachusetts" as drawn on plans by Cape & Island Engineering: Sheet 1 of 4 'Cover Sheet' with a final revised date of 11/28/17 stamped and signed by Matthew C. Costa, PLS and Raul Lizardi-Rivera, PE; Sheet 2 of 4 'Existing Conditions Site Plan' with a final revision date of 3/23/18 (assume typo - s/be 1/23/18) stamped and signed by Matthew C. Costa, PLS and Raul Lizardi-Rivera, PE; Sheet 3 of 4 'Grading, Drainage & Utilities Plan' with a final revision date of 1/23/2017 stamped and signed by Matthew C. Costa, PLS and Raul Lizardi-Rivera, PE; and Sheet 4 of 4 'Landscape Plan & Details' with a final revision date of 3/23/18 (assume type - s/be 1/23/18) stamped and signed by Matthew C. Costa, PLS and Raul Lizardi-Rivera, PE - all Sheets have a Board date 'received' stamp of January 25, 2018;
  - "Proposed Second Story Apartments" as drawn by Cape & Island Engineering - Sheet 1 of 1 'Turning Movement (Box) 30 feet Box Truck' dated January 22, 2108 with a Board date 'received' stamp of January 25, 2018; and
  - "661 main St. Falmouth, MA" plans as drawn by Longfellow Design Build consisting of Drawing A0.0 'Cover' dated 9/28/17, Drawing A1.1 'Proposed First Floor Plan' dated 9/28/2017, Drawing A1.2 'Proposed Second Floor' dated 9/28/17 and Drawing A2.1 'Exterior Elevations' dated 9/28/17 - all Drawings have a Board date 'received' stamp of October 16, 2017.
2. There shall be no more than seven (7) apartments created on subject property as represented herein.
3. There shall be no more than ten (10) bedrooms allowed on subject property.
4. The drainage for subject property shall be installed and maintained as shown on the plans noted in Condition 1 above.
5. The applicant shall submit a Landscape Plan that includes all signage, planting, screening and striping of parking spaces as discussed and agreed to at the hearing. The plan shall include landscaping that will deter parking on the driveway entrance off Main Street to the building on site and to deter use of subject property entrance to gain access to abutting lots (on the east and west of subject property). The Landscape Plan shall be submitted to the Board for approval prior to the issuance of a Building Permit for the addition of a second floor to the existing building as approved herein.

6. The applicant shall designate and install signage for 'resident parking only' at two (2) of the five (5) parking spaces on the west side of the building and for three (3) of the seven (7) parking spaces on the easterly side of the property. The signage shall be maintained to insure resident parking only. The resident parking spaces are located at each end of the building because the entrances to the one-bedroom units are near the middle of the westerly side of the building and the two-bedroom units are near the middle of the easterly side of the building.
7. The applicant shall stripe all fourteen (14) parking spaces at the front of the building and all seven (7) spaces at the easterly side of the building. The five (5) spaces at the westerly side of the building are on a gravel surface and unable at this time to stripe; however, in the event the area is paved in the future, these five (5) parking spaces shall all be striped. This condition is meant to define the parking spaces, especially at the front of the building where wheel mounts are located to insure the correct number of parking spaces.
8. The applicant, as agreed to in the hearing (see minutes), shall submit copies of tenant leases showing that the tenants are required to limit deliveries to the site by a truck that will be no larger than 30' x 8'. The applicant shall inform the existing tenants of the requirement and will add the language of delivery truck compliance to existing leases at the time when leases are renewed.
9. The applicant shall submit to the Board of Appeals for approval a sign that will be placed at the beginning of the easement off Main Street, notifying the public of the private way that is for the use of abutters only that reside along the westerly property line of subject property. The sign is intended to discourage use by the public or building tenants/residents to enter or exit subject property through the easement meant only for abutters of subject property.
10. 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.
11. The Applicant shall meet the requirements of the DPW Water Division.
12. 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.)
13. This permit shall lapse three (3) 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:       **091-17**

Applicant:                       **BOGOSIAN DEVELOPMENT LLC**

Subject Property:               **661 Main Street, Falmouth, Massachusetts  
Map 47B Section 05 Parcel 012 Lot 000A**

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

Vote:               4 – 0 to Grant the Special Permit as represented to the Board, based on the Findings stated herein and with the above stated Conditions.



**Terrence J. Hurrie, Acting Chairman, Board of Appeals**

**RECEIVED**

**FEB - 9 2018**

FALMOUTH TOWN CLERK

*aw* 10:30 am  
\_\_\_\_\_  
**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.