

**FALMOUTH ZONING BOARD OF APPEALS  
FINDINGS AND DECISION**

**COMPREHENSIVE PERMIT NO:** 080-18 – Modification of #111-00 and #89-04

**APPLICANT:** FALMOUTH HOUSING CORPORATION  
of Falmouth, MA

**PROPERTY ADDRESS:** 587 GIFFORD STREET, FALMOUTH, MA

**ASSESSOR’S MAP:** MAP 34, SECTION 01, PARCEL 008, LOT 003

**DEED/CERTIFICATE** Book 19383 / Page 163

**SUMMARY:** Granted with conditions

**VOTING MEMBERS:** Chairman Terrence Hurrie, Vice Chairman Kenneth Foreman, Acting Clerk Edward Van Keuren, Member Paul Murphy and Associate Member Gerald Potamis

**ZONING:** Agricultural B

**OVERLAY DISTRICT(S):** Green Pond Coastal Pond Overlay District  
Water Resource Protection District

Under a date of August 30, 2018, the Falmouth Housing Corporation of Falmouth, MA, applied to the Zoning Board of Appeals for a modification of the Comprehensive Permit granted as Appeal No. 111-00, as previously modified by modification decision in Appeal No. 89-04, for approval of a plan to allow division of the land containing the affordable housing project site to reduce the size of the lot upon which the project site is situated (known as Lot 3) from 12.4 acres to 11.2 acres. The newly configured lot is to be known as Lot 4. The subject property is located at 587 Gifford Street.

At a duly posted open meeting of the Board of Appeals held on September 6, 2018, the Zoning Board of Appeals (the “Board”) voted that the change of the lot size of the project site was a “substantial” change pursuant to 760 CMR 56.05(11).

A public hearing was then held on October 11, 2018, and notice was duly given as required pursuant to M.G.L. Chapter 40A, Section 11, Chapter 40B, Section 21 and 760 CMR 56.05 (11), as well as notices sent to all persons deemed to be affected thereby as they appear on the tax list, and at which hearing all parties desiring to be heard were heard. The Applicant agreed in writing, signed by the applicant’s representative on 9/10/2018 and filed with the Town Clerk on September 11, 2018, to extend the statutory time that the Board has to commence the public hearing by an additional ten days.

The hearing was closed on October 11, 2018 after presentation by the applicant’s representative, public testimony and Board review.

Hearing:

Attorney Laura M. Moynihan represented the Applicant and explained the application to the Board. The property contains a M.G.L. Chapter 40B development, with 36 existing rental units on 12.4 acres. The proposal is to reduce the size of the parcel upon which the project is located on to 11.2 acres in order to allow for creation of a new 1.2 acre lot for construction of new affordable housing units – to be known as Lot 4. The 1.2 acres currently contains a garden area. The tenants of the project site do not have interest in using the garden area, and the Applicant permitted the Falmouth Service Center (located on the abutting parcel) to use the garden area on an informal basis. The Falmouth Service Center has confirmed in its letter dated May 14, 2018, a copy of which has been submitted to the Board, to Linda J. Clark, President of the Applicant, that it supports the construction of new affordable housing on the 1.2 acre parcel within the area that now contains the garden. The Board received a letter dated September 5, 2018 from the Applicant, Linda J. Clark, President of Falmouth Housing Corporation, confirming that the Falmouth Service Center does not object to the discontinuance of the garden use and that the tenants of the project site do not use the garden area.

Attorney Moynihan discussed that there will be very little impact from the changes. The existing density is 2.9 units per acre and the proposed density will be 3.21 units per acre. There will be 48 bedrooms over the 11.2 acres, or 10,164 square feet of land per bedroom. The lot coverage will be 3.55% for structures and 10.55% overall for structures, pavement and parking (from 3.21% for structures and 9.5% overall). The lot coverage will remain well below that allowed under the Falmouth Zoning Bylaw.

The Board sought and received commentary on this proposal from other town departments and boards, including the Fire Department, the Water Division, the Conservation Commission, the Board of Health, the Planning Board, Falmouth Human Services, and the Cape Cod Commission. This commentary has been carefully considered and incorporated into the Board's decision.

There was no opposition to the proposal.

Plans submitted and represented at the hearing entitled:

“Existing Conditions” prepared for Falmouth Housing Corporation in Falmouth, MA as drawn by Holmes and McGrath, Inc. dated August 28, 2018 – plan is stamped and signed by Michael B. McGrath, PE and has a Board date ‘received’ stamp of August 31, 2018;

“Plan of Land” prepared for Gifford Workforce Housing in Falmouth, MA as drawn by Holmes and McGrath, Inc. dated August 28, 2018 – plan is stamped and signed by Michael B. McGrath, PE and has a Board date ‘received’ stamp of August 31, 2018; and

“Overall Site Plan o Proposed Dwellings” prepared for Gifford Workforce Housing in Falmouth, MA as drawn by Holmes and McGrath, Inc. dated August 28, 2018 with a final revision date of 10/1/2018 – plan is stamped and signed by Michael B. McGrath, PLS and has a Board date ‘received’ stamp of October 4, 2018.

## FINDINGS

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

The subject property contains 12.4 acres of Agricultural B zoned land located at 587 Gifford Street, Falmouth, MA. The property contains 36 affordable rental dwelling units. Construction of these units was approved under a Comprehensive Permit pursuant to M.G.L. Chapter 40B. The Applicant proposes modification of the existing Comprehensive Permit (Appeal No. 111-00, as previously modified in Appeal No. 89-04) to allow reduction in the lot area of the project site from 12.4 acres to 11.2 acres, discontinuance of the garden area, and access and utility easement areas to service the housing to be constructed on adjacent land, all as shown on the plan entitled "Plan of Land prepared for Gifford Workforce Housing in Falmouth, MA", Scale: 1" = 60', Dated August 28, 2018, prepared by Holmes and McGrath, Inc.

The Board finds that the newly configured lot for the project site with 11.2 acres is adequate and satisfactory for the operation and use of the existing 36 affordable housing rental units.

The Board finds that the proposed land division plan submitted by the Applicant entitled "Plan of Land prepared for Gifford Workforce Housing in Falmouth, MA", Scale: 1" = 60', Dated August 28, 2018, prepared by Holmes and McGrath, Inc., to create the new project site lot, to be known as Lot 5 is adequate and satisfactory for approval and signature by the Board.

The Board finds that these will be only minimal impacts, if any, on the project site and the existing affordable housing units from the changes proposed by the Applicant.

The Board finds that the lot area minimum frontage and minimum lot width will remain in compliance with Section 240-67.A. of the Code of Falmouth Zoning Bylaw for a conforming lot in the Agricultural B Zoning District and Water Resource Protection District.

The Board finds that the proposed use of the project site for access and utilities to serve the adjacent land, shown as Lot 5 on the above-referenced plan, is adequate and satisfactory.

## DECISION

Pursuant to M.G.L. Chapter 40B, and regulations thereto at 760 CMR 56.00 et sec, the Zoning Board of Appeals of Falmouth, after public hearing and findings of fact, hereby GRANTS to the Applicant a modification of the Comprehensive Permit granted as Appeal No. 111-00, as previously modified in Appeal No. 89-04, to allow the requested reduction in lot area to the 11.2 acres (to be known as Lot 4) and a newly configured lot for the project site with an access and utility easement in favor of abutting land, shown as Lot 5 on the above-referenced plan, and to allow elimination of the garden area at the project site. This modification is subject to the following conditions:

1. All conditions of Appeal No. 111-00 and Appeal No. 89-04 shall not be derogated from and shall remain in full force and effect unless specifically modified herein.
2. The new project site lot (Lot 4 – previously known as Lot 3) and access and utility easement area shall be substantially as represented to this Board and as shown on the plans entitled:

“Existing Conditions” prepared for Falmouth Housing Corporation in Falmouth, MA as drawn by Holmes and McGrath, Inc. dated August 28, 2018 – plan is stamped and signed by Michael B. McGrath, PE and has a Board date ‘received’ stamp of August 31, 2018;

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3. This permit shall not take effect until the Applicant: (1) Submits to the Board for signature the plan of land division referenced in Condition 2 above to create the 1.2 acre project site; (2) records such plan at the Barnstable County Registry of Deeds; and (3) submits a copy of the said plan to the Board as so recorded.

**Modification to Comprehensive Permit Decision by Falmouth Zoning Board of Appeals  
continued:**

**Modification Comprehensive Permit#: 080-18**

**Applicant: FALMOUTH HOUSING CORPORATION**

**Subject Property: 587 Gifford Street, Falmouth, MA  
Map 34, Section 01, Parcel 008, Lot 003**

**Action:** The Board of Appeals, being verified by signature below, voted as follows for the above referenced Modification to Comprehensive Permit.

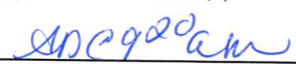
**VOTE:** Board voted 5 - 0 to Grant the Modification to Comprehensive Permit represented herein based on the Findings and subject to the Conditions stated above.

  
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Terrence J. Hurrie, Chairman, Board of Appeals

**RECEIVED**

**OCT 19 2018**

**FALMOUTH TOWN CLERK**

  
\_\_\_\_\_  
Date filed with Town Clerk

Notice is hereby given that any appeal from this Decision shall be made pursuant to Section 17 of M.G.L. Chapter 40A or Section 22 of M.G.L. 40B or 760 CMR 56.00, and shall be filed within twenty (20) days after the decision of the Board of Appeals.