

264

FALMOUTH ZONING BOARD OF APPEALS

**COMPREHENSIVE PERMIT
FINDINGS AND DECISION**

Comprehensive Permit: 090-17
Applicant: HELMIS CIRCLE, LLC of North Reading, MA

Property Address: Helmis Circle (7 lots Off Worcester Court and Alma Rd)
Assessor's Map: Map 39 Section 16 Parcel 001A Lots 003, 004, 005, 006 & 007
Map 39 Section 16 Parcel 001A Lots 009 & 010
Map 39 Section 17 Parcel 002 Lot 16 (Helmis Circle)

Development Name: Little Pond Village at Falmouth Heights

Summary: Comprehensive Permit Granted with Conditions

PROCEDURAL HISTORY

1. On October 13, 2017, Helmis Circle, LLC, 100 Riverpark Drive, North Reading, Massachusetts 01864 (hereinafter Applicant), applied for a comprehensive permit from the Zoning Board of Appeals of Falmouth (Board), pursuant to Massachusetts General Law (M.G.L.) Chapter 40B and 760 CMR 56.00, to take seven (7) existing lots and create twenty-eight (28) lots with a single-family dwelling on each lot on what will be known as Little Pond Village at Falmouth Heights, Falmouth, Massachusetts. The applicant proposed to construct twenty-eight (28) “for sale” dwellings of which seven (7) will be sold to households earning no more than 80% of area median income of Barnstable County. The proposed project for twenty-eight (28) dwellings shall be called ‘Little Pond Village at Falmouth Heights’. As proposed the Development would be constructed on lots that total 216,929 square feet and accessed via Worcester Court or Alma Road. The property is zoned for Residential C and is located within the Little Pond Coastal Pond Overlay District.
2. The Board’s public hearing was advertised, noticed (according to M.G.L. Chapter 40A, section 11) and duly opened on November 30, 2017; and was continued to January 18, 2018; March 15, 2018 (no testimony); April 19, 2018 (no testimony); June 7, 2018; and August 2, 2018. (Note: the hearing was continued to allow applicant to go through the Conservation Commission filing and hearing under the State Wetlands Protection Act.)
3. The public hearing was closed on August 2, 2018 wherein the Board voted 5 – 0 to direct the Zoning Administrator to draft an affirmative decision with conditions for the Board to review in an open meeting to be held on August 16, 2018. Board members sitting Chairman Terrence Hurrie, Vice Chairman Kenneth Foreman, Member Ed Van Keuren, Member Paul Murphy and Associate Robert Dugan (sitting as voting member).
4. The Board convened into an Open Meeting on August 16, 2018 wherein the Board voted 5 – 0 to approve the Decision as drafted with amendments.

5. The project is located on land that currently consists of seven (7) lots that in total will be divided into twenty-eight (28) residential lots. The properties are zoned Residential C and are located within the Little Pond Coastal Pond Overlay District.
6. The Applicant provided various materials, reports, studies and revised plans throughout the course of the public hearing on the application submitted. All submissions are on file in the office of the Board of Appeals at Town Hall.
7. During the public hearing, the Applicant was assisted primarily by its counsel, Peter Freeman, Esquire of Freeman Law Group LLC, its Civil Engineer Brandon Carr, P.E. with DiPrete Engineering and Architect Glen S. Fontecchio.
8. During the hearings the Board heard significant public comment from abutters to the subject property and other interested parties. Letters from individuals were submitted and are on file in the office of the Board of Appeals at Town Hall.

FINDINGS

9. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive permit to the Board, and the development fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04 (1) as follows:
 - (a) The Applicant is a limited dividend entity, Helms Circle, LLC, which is a single purpose entity created for the purpose of the Project. Helms Circle, LLC has a principal place of business of 100 Riverpark Drive, North Reading, MA 01864;
 - (b) evidence of a subsidy as indicated by the project eligibility/site approval letter of MassHousing dated July 20, 2017 addressed to Randal Lilly Helms Circle, LLC;
 - (c) The Applicant has shown "control of site" by virtue of a "Purchase and Sale Agreement" dated February 15, 2017 and signed by the Applicant and Land Owner; and
 - (d) The Applicant has agreed to execute a Regulatory Agreement that limits its profit in accordance with M.G.L. Chapter 40B and the regulations (760 CMR 56.00 et seq.) and guidelines adopted thereunder by the Department of Housing and Community Development (DHCD).
10. The Board finds that the Town of Falmouth, according to DHCD, has not achieved the statutory minimum set forth in M.G.L. c. 40B, s. 20 or 760 CMR 56.00 nor is affordable housing located on sites comprising one and one-half percent or more of the total land area zoned for residential, commercial or industrial use.
11. The Town does not currently have an approved Housing Production Plan pursuant to 760 CMR 56.03 (4). The Town is currently working on preparing a new Housing Production Plan.
12. The Board retained the services of Cape & Island Engineering in Mashpee, Massachusetts to provide an independent review and comments on the stormwater/drainage proposed for the development of Little Pond Village (See opinion dated January 11, 2018 to Falmouth Zoning Board of Appeals submitted to the file).

13. The Board did ask the opinion of the Town's Tree Warden Jeremiah Pearson to review susceptibility of trees remaining on subject properties after land is cleared for proposed development. See letter dated June 29, 2018 from Jeremiah Pearson to Zoning Administrator submitted to the file. (Note: Mr. Pearson is a certified arborist.)

14. The Board finds that the proposed development to be known as 'Little Pond Village at Falmouth Heights' was reviewed on October 31, 2017 in a meeting held by the Zoning Administrator by the following municipal officers or agencies:

Mel Trott and Boyd DeMello of Falmouth Fire Rescue/Fire Prevention
Building Commissioner Rod Palmer
Water Superintendent Steve Rafferty
Assistant Town Manager Peter Johnson-Staub
Nick Croft Town Engineering Department
Trisha Favulli Director of Assessing

15. Referrals/emails were received from:

Cape Cod Commission
Town Engineering Department
Conservation Commission
Fire Prevention Officer Lt. Mel Trott
Water Superintendent Steve Rafferty
Wastewater Superintendent Amy Lowell

16. The proposed Development is located off Alma Road and Worcester Court that currently exists as seven (7) lots that in totality will be subdivided into twenty-eight (28) residential lots. The property abuts residential properties to the south, commercial properties at the northwest corner, Town property with a recent 40B through Falmouth Housing Corporation (40 rental units) north and northeast and Little Pond on the east side. It is noted that the majority of the twenty-eight (28) proposed residential lots are less than 5,000 square feet in size as shown on the plans submitted and noted in Conditions below.

17. The Board finds that the applicant will be required to submit a certified plan (mylar) showing the creation of the proposed twenty-eight (28) residential lots and a separate lot for a "play area" (as defined below if the Applicant chooses to have the required play area on a separate lot) as approved herein. Prior to the issuance of a building permit the Applicant shall submit the subdivision plan (mylar) for signature by the Board of Appeals, file the subdivision plan with the Barnstable Registry of Deeds and submit a copy of the filed plan with the Board of Appeals.

18. The Board finds that as required in this decision, each dwelling unit will be serviced by Town water and sewer.

19. The Board finds that according to Town Code, Article VIII "Flow Neutral Bylaw for Present and Future Sewer Service Areas" Section 180-56 "Variances in sewer service areas." – Subsection B. *The Board of Selectmen may, at its sole and absolute discretion, issue a variance that in its judgment could be granted without substantially derogating from the intent or*

purpose of this bylaw should the applicant fail to satisfy criteria in §180-56A(s) above.

However, in a Comprehensive Permit application the Board of Appeals is the sole permit granting authority and acts on behalf of all local Town Boards – including, but not limited to, board of health, planning board, conservation commission, water, sewer, building inspector and board of selectmen (see ‘Local Board’ – 760 CMR 56.02 Definitions).

20. The Board finds through submission of emails from the Wastewater Superintendent and a letter of referral from Wastewater Superintendent Amy Lowell dated November 27, 2017 (see emails and letter submitted to the file) that there is presently sufficient wastewater treatment and discharge capacity for the proposed development represented herein.
21. The Board, during the hearing process, questioned the applicant as to possible inequity of ten (10) lots out of the proposed twenty-one (21) market rate lots to receive detached garages (no attached garages proposed within the Development) – no affordable dwelling lot was proposed as having a garage. The Board further finds that the Applicant, during the course of the public hearing held on August 2, 2018, eliminated the ten (10) garages from the development (Statement from R. Lilly was that he would eliminate the ten garages if the Board allowed the twenty-eight dwellings/lots).
22. The Board finds that Applicant proposes parking on each individual lot with no street parking.
23. The Board finds that with twenty-eight (28) dwelling units, which includes seven (7) affordable dwelling units, as represented by the Applicant as a family community, a dedicated play area is to be included within said development – the location within the Development is at the Applicant’s discretion. The Board’s consensus is that a 4,000 square foot area of space will be dedicated and designed as a play area for the families within the development (hereinafter the “play area”. The Homeowner Association Covenants shall include the care and maintenance of this dedicated play area to the association along with the care and maintenance of the roadway and drainage. The Board further noted during the hearing process that there is no open space proposed within this Development.
24. The Board finds that the Applicant was required to file with Conservation Commission as a portion of the subject property is within the Massachusetts Wetlands Protection jurisdiction.
25. The Board finds that the Applicant filed with the Conservation Commission pursuant to the State Wetlands Act and was issued an Order of Conditions on June 27, 2018.
26. The Board finds that the Applicant appealed the Order of Conditions to the Department of Environmental Protection and at the time of this Board’s decision, the parties are in discussion for issuance of a Superseding Order of Conditions which the Board will accept as part of the conditions below.
27. The Board finds that the Development qualifies for Town trash pickup and snow removal from the development roadway.
28. The Board finds that the Development would not endanger public health or safety or the environment, provided that the Development satisfies all of the conditions set forth below.

29. The Board acknowledges concerns raised by abutters and other interested parties about the development's potential incompatibility with abutting residential uses and environment. The Board finds that issues have been addressed through appropriate conditions listed herein and according to the regulations noted herein for approval of a Comprehensive Permit.
30. If developed in accordance with the Conditions set forth herein, the proposed Development will be consistent with local needs.

DECISION

The Zoning Board of Appeals of Falmouth, after public hearings and findings of fact, hereby grants a comprehensive permit to Helms Circle, LLC (Applicant) for the construction of twenty-eight (28) single-family dwelling units on twenty-eight (28) individual lots that will be known as Little Pond Village at Falmouth Heights. The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. The term "Board" as set forth herein shall mean the Zoning Board of Appeals. Unless otherwise indicated herein, the Board of Appeals may designate an agent or agents to review and approve matters set forth herein. The Applicant shall subdivide the properties noted herein into twenty-eight (28) residential lots with each having a single-family dwelling with associated infrastructure and improvements that shall be subject to the following conditions:

CONDITIONS:

1. The Development shall be constructed substantially as represented to this Board according to the conditions below and as shown on preliminary plans of record set forth below known as "Little Pond Village at Falmouth Heights" consisting of Sheets 1 of 13. Listed below are the site plans within said preliminary plan set (the "preliminary plans"):
 - Sheet 5 of 13 - 'Soil Erosion Control Plan' with a final revised date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018;
 - Sheet 6 of 13 - 'Site Layout Plan' with a final revision date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018;
 - Sheet 7 of 13 - 'Grading & Utility Plan' with a final revision date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018;
 - Sheet 8 of 13 - 'Grading Plan 1' with a final revision date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018;
 - Sheet 9 of 13 - 'Grading Plan 2' with a final revision date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018;
 - Sheet 10 of 13 - 'Plan & Profile Sheet' with a final revision date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018;
 - Sheet 11 of 13 - 'Underground Infiltration Systems Details' with a final revision date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018;
 - Sheet 12 of 13 - 'Detail Sheet 1' with a final revision date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018; and
 - Sheet 13 of 13 - 'Detail Sheet 2' with a final revision date of 4/18/2018 and a Board date 'received' stamp of May 30, 2018.

Note: As stated in the Findings above, the Applicant agreed to eliminate all garages proposed ten (10) in total.

2. The Applicant shall keep the footprint of all dwellings (including any three-season rooms – if constructed – and sheds) as represented in the preliminary plans – there shall be no increase to said footprint of a dwelling due to the elimination of garages.
3. The landscaping and plantings for the development and the buffering and screening of the abutting properties shall be substantially as shown on the “Conceptual Site Landscape Plan Little Pond Village at Falmouth Heights” – dated October 7, 2017 and with a Board date ‘received’ stamp of October 19, 2017.
4. The dwelling designs shall be designed and constructed substantially the same as the conceptual drawings submitted on two separate pages – one being “The Saltbox” dated October 7, 2017 with a Board date ‘received’ stamp of October 19, 2017 and “The Cape” dated October 7, 2017 with a Board date ‘received’ stamp of October 19, 2017 – Note: depiction of “The Ranch” design not submitted to file.
5. The floor plans and elevations of the dwellings noted in Condition 3 above shall be constructed substantially the same as shown on the following plans:
 - “Cape Little Pond Village” consisting of Drawings A1.0 ‘Basement Plan & Building Section, Drawing A1.1 ‘Plans’ and Drawing A2.0 ‘Elevations’ – all dated July 12, 2017 with a Board date ‘received’ stamp of October 19, 2017;
 - “Saltbox Little Pond Village’ consisting of Drawings A1.0 ‘Basement Plan & Building Section’, Drawing A1.1 ‘Plans’ and Drawing A2.0 ‘Elevations’ – all dated July 12, 2017 with a Board date ‘received’ stamp of October 19, 2017; and
 - “Ranch Little Pond Village’ consisting of Drawings A1.0 ‘Basement Plan & Building Section’, Drawing A1.1 ‘Plan’ and Drawing A2.0 ‘Elevations’ – all dated July 12, 2017 with a Board date ‘received’ stamp of October 19, 2017.
6. Each of the twenty-eight (28) residential lots in the Development may be allowed a shed of less than one-hundred (100) square feet and said shed(s) shall be in compliance with a required 3’ setback from any side or rear property line and no shed shall be located in front of a dwelling on any lot within this Development.
7. The Development shall be limited to twenty-eight (28) residential lots with each having a single-family dwelling and shed. The Applicant is offering to add a three-season room to dwellings at owner’s request at the time of purchase and if not added at time of purchase, an owner may request in the future that the Board approve a modification to add a three-season room pursuant to 760 CMR 56.05 (11). The three-season rooms will be offered to all purchasers and the three-season rooms shall not exceed the footprint shown on the plans noted in Condition 1 above and shall be constructed so as not to be considered a bedroom under applicable state codes. All units shall be limited to three (3) bedrooms. There shall be no more than eighty-four (84) bedrooms within the subject development to be known as ‘Little Pond Village at Falmouth Heights’. The Development shall also include a play area (as defined above) which, in the Applicant’s sole discretion, may be created as a separate lot by taking the required 4,000 square feet from land area currently within Lot 14.

8. Seven (7) of the twenty-eight (28) dwelling units shall be low or moderate-income dwelling units and shall be reserved in perpetuity for sale to households earning no more than eighty percent (80%) of the Area Median Income (“AMI”) as determined by the United States Department of Housing and Urban Development (HUD) and DHCD (“Affordable Units”). The Affordable Units shall be dispersed throughout the Development – at least every 3 or 4 units to be affordable so as not to be next to one another – evenly dispersed throughout the development and not to be segregated from the market rate units, nor shall they be distinguishable from the exterior from the market rate units. It is noted that the plan – “Affordable Lots Exhibit” dated 1/5/2018 (received by the Board on January 12, 2018) is not acceptable by the Board as the dwelling units, especially on the south side of the development, are not equally distributed throughout the development.
9. To the extent permitted by law, preference for the sale of seventy percent (70%) of the Affordable units in the initial round of sales shall be reserved for persons or families who are first time home buyers and Falmouth residents; and/or (b) the parents or children of current Falmouth residents, and/or (c) employees of the Town of Falmouth or those employed within the Town of Falmouth. The local preference shall be implemented by a Lottery Agent. Prior to conducting the Lottery, the Lottery agent shall submit a final Lottery plan to the subsidizing agency and the Board of Appeals for its approval. All costs associated with the Lottery shall be exclusively borne by the Applicant. The Board acknowledges that it will be required to provide evidence satisfactory to the subsidizing Agency, if found necessary by the subsidizing agency.
10. Prior to the issuance of any building permit, the Applicant shall have prepared a subdivision plan showing the twenty-eight (28) residential lots and the play area lot or area as represented herein. The Applicant shall submit said plan to the Board of Appeals for signature by the Board and then file the signed plan with the Barnstable Registry of Deeds or the Commonwealth of Massachusetts Land Court and return copy of said filed plan to the Board of Appeals forthwith.
11. Prior to the issuance of any building permit, the Applicant shall prepare the final draft of a Regulatory Agreement and a Deed Rider and submit same to the subsidizing agency for approval with a copy as well to the Board for approval as to form by the Board’s legal counsel on the Board’s behalf. Such document(s) shall contain the name of a Monitoring Agent and a Lottery Agent; and at a minimum, the following terms:
 - (a) The Affordable Units shall be reserved for sale in perpetuity to households earning not more than eighty percent (80%) of the Area Median Income.
 - (b) The option to purchase an Affordable Unit on resale shall be granted to the Board of Selectmen.
 - (c) The actual Affordable Units shall be identified by lot number or address in the Regulatory Agreement.
 - (d) The Affordable Units shall be owner-occupied only; provided, however, that the Board may authorize the temporary rental of such units at a price affordable to a household earning not more than 80% of area median household income where the owner demonstrates that there is a bona fide reason for same, such as illness in the family, military duty, or the like, as may be approved by the subsidizing agency.

12. Prior to the issuance of any building permit, the Applicant shall enter into a Monitoring Agreement approved by the subsidizing agency with a copy submitted to the Board for review by the Board's legal counsel as to form. Such Agreement(s) shall be consistent with the terms of this Decision. All costs associated with monitoring shall be borne by the Applicant until the sale of the last affordable unit, and thereafter as approved by the subsidizing agency Deed Rider. All financial information provided to the Monitoring Agent by the Applicant for the required audit after the initial round of sales shall be provided at the same time to the Board by certified mail. All reports of the monitoring agent shall be provided by certified mail to the Board.
13. This Comprehensive Permit shall be a master permit which is issued in lieu of all other local permits or approvals that would otherwise be required, except for the issuance of Building Permits and Certificates of Occupancy by the Building Department under the State Building Code.
14. This Comprehensive permit shall not be transferred to a person or entity other than the Applicant except pursuant to 760 CMR 56.05(12)(b).

Management Issues

15. The Applicant has proposed, and the Board of Appeals hereby requires, that the following aspects of the Development shall be and shall remain forever private, and that the Town of Falmouth, unless otherwise agreed, shall not have, now or ever, any legal responsibility for operation or maintenance of same:
 - All roadways and parking areas
 - Stormwater management facility
 - Landscaping
 - Street lighting
16. The Applicant or a management company shall be responsible for the installation, operation, and maintenance of all aspects of the common facilities described herein. In the event that a management company is engaged, the Applicant shall provide the Board with a copy of the contract.
17. The Applicant's registered professional engineer shall prepare guidelines for the operation and maintenance of the stormwater management system consistent with the Operations and Maintenance Plan submitted to the Board during the hearing. In the event a management company is engaged, such guidelines shall be incorporated by reference in the management contract. The Applicant shall include in the Homeowner Association Covenants that the Applicant and then the Homeowners Association have easements on the Lots as necessary to maintain the stormwater management system. In the event that the Applicant or its agent fails to maintain the stormwater management in accordance with such guidelines for operation and maintenance, the Board or its designated agent may seek enforcement against the Applicant and then the Homeowners Association to require compliance with the Operations and Maintenance Plan.

18. The Applicant is permitted to connect to the Town municipal sewer system and water system. The Applicant shall file application(s) with the Wastewater Department and the Water Department for this Development for review by the Wastewater Department and Water Department to assure compliance with the technical requirements of said Departments. The Applicant and its designee (plumber and or contractor) shall adhere to all the technical requirements in order for all dwelling units within this Development to be on Town sewer and water.

Construction

19. Prior to the issuance of a building permit for any dwelling unit, the Applicant shall submit the following final information or plans for approval by the Board of Appeals or its agent:

- Site Plan – noting elimination of all garages
- Landscaping and planting plan
- Erosion control plan
- Utilities plan (water, gas, electric, cable)
- Stormwater management design
- Lighting Plan
- Grading Plan
- Signage Plan
- Final Architectural Plan

The above plans shall be reviewed by the Board of Appeals Zoning Administrator or designated Agent for consistency with the terms of this Decision. A building permit application for the first dwelling to be constructed will be submitted to the Zoning Administrator for review and sign off. The building permit application shall include an updated “Site Plan” attached (noting all changes as conditioned herein to insure that the footprint and location of the dwellings is consistent with the terms of this Decision). Review of said plans by the Zoning Administrator or designated Agent shall be approved within 21 days of submission by the Applicant. Such approval shall not be unreasonably withheld. The failure of the Board of Appeals or Zoning Administrator to approve such final plan within said 21 days shall be deemed a lack of opposition thereto.

20. During construction, the Applicant shall conform to all local, state and federal laws regarding noise, vibration, and dust and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction shall not commence on any day before 7:00 a.m. and shall not continue beyond 7:00 p.m. There shall be no construction on any Sunday or state or federal legal holiday.
21. The Applicant shall conform to all pertinent requirements of the Americans with Disabilities Act.
22. The Applicant shall promptly pay the reasonable fee of the consulting engineer for review of the documents or plans described herein.
23. Inspections during the construction phase shall be conducted, at the expense of the Applicant, in accordance with the Rules and Regulations of the Planning Board. The Board of Appeals may appoint an agent to conduct such inspections.

24. Should the drainage system as installed prove not adequate to prevent the development from increasing ground water elevation and adversely affecting nearby properties, the Board will, upon request of either the Applicant or any neighbor, review the ground water conditions with the interested parties and may administratively approve changes to mitigate the problem. It is intended that the development not cause any increase in ground water elevation, over what may occur under the existing conditions that might adversely affect nearby residents.
25. No certificate of occupancy for any building shall be issued until the improvements specified in this decision and set forth on the plans of record are constructed and installed so as to adequately serve said building or adequate surety has been provided, reasonably acceptable to the Board of Appeals, to ensure such completion, provided, however, it is understood that as to pavement, only the binder coat of asphalt will be installed until the completion of the entire project. Any such performance guarantee shall be approved as to form by the Board's legal counsel.
26. The Board of Appeals denies any fee waivers for this development.
27. The term "Applicant" as set forth herein shall mean Helms Circle, LLC, and its heirs, successors and assigns. The term "Town" shall mean the Town of Falmouth. The term "Board" shall mean the Zoning Board of Appeals. Unless otherwise indicated herein, the Board of Appeals may designate an agent to review and approve matters set forth herein to be approved by the Board of Appeals subsequent to this Decision.
28. This Comprehensive Permit (#090-17) shall expire three (3) years from the date of it being filed with Falmouth Town Clerk if no building permit has been issued at such time.
29. The Applicant has requested, and the Board of Appeals has granted, the waivers from local rules/regulations/bylaws as set forth below. Minor deviations from otherwise applicable local rules may be authorized by the Board of Appeals in the subsequent review and approval of final plans.

- Section 240-67 A. of the Code of Falmouth – “Minimum lot dimensions.”

The smallest lot within the Development shall be no less than 3,557 square feet in size -
Granted

The minimum lot width within the Development shall have a width of no less than
22.6' - Granted

The minimum frontage of a lot within the Development shall be no less than 22.6' -
Granted

Note: See the Lot Area and Setback Chart attached to this Decision.

- Section 240-68 of the Code of Falmouth – “Setbacks.”

Minimum Front Setbacks – 240-68 A. – No setback from a dwelling structure to the front property line of any lot shall be less than 10’ (25’ required) – See the Lot Area and Setback Chart attached hereto. - Granted

Minimum Side and Rear Setback – 240-68 B. – No setback from a dwelling structure to the rear property line of any lot shall be less than 10’ (10’ required). No setback from a dwelling structure to a side property line of any lot shall be less than 3’ (10’ required) and said setback to a side property line shall be consistent with the Lot Area and Setback Chart attached hereto. - Granted

- Section 240-69 of the Code of Falmouth – “Maximum lot coverage.”

Maximum Lot Coverage – structure: 39% by structures for Lots 20, 23 and 27 - Granted

Maximum Lot Coverage – structure, parking and paving: 54% total lot coverage for Lot 27 – Granted

Note: See the Lot Area and Setback Chart attached hereto.

The Board recognizes that the required play area (4,000 square feet minimum) may be created as a separate lot by taking the required 4,000 square feet from land area currently within Lot 14 (or from another lot or area in the Applicant’s sole discretion). Therefore, changes to Lot 14 (or such other lot as may be chosen by the Applicant) are acceptable as long as the above minimum lot dimensions and minimum setbacks are not reduced and as long as the above maximum lot coverages are not increased.

- Article XXI – “Coastal Pond Overlay District” – Granted
- Section 240-167 – “Subdivision Phasing” - Granted
- Article XXXV – ‘Applicability’ - Section 240-167 of the Code of Falmouth – Granted
- Applicant seeks a waiver from sections of the Falmouth Subdivision Regulations as follows:

Section 305-24 B. (1) (a) – Minimum Right of Way Width – 36’ width - Granted

Section 305-24 B. (1) (c) – Minimum center-line radii – 50’ - Granted

Section 305-24 B. (1) (d) – Minimum reverse curve tangent length – 0’ - Granted

Section 305-24 B. (b) (6) – Grade at intersections for first 100 feet 2.19% slope – Granted

Section 305-24 B. (8) – Required 60’ road layout – Proposed 36’ with buffer – Granted
(Note: Roadway is private)

Section 305-25 Easements – Required easement for municipal services, utilities drainage facilities require 20’ wide – Proposed easement between Lots 17 and 18 is 8’ – Granted; and drainage easement between Lots 24 and 25 is 10’ wide - Granted
(Note: these are private easements between Homeowners Association and lot owner.)

Section 305-35 F. Grass Strip - Waiver from 4’ width to 3’ wide grass strip on south side of roadway between the sidewalk and roadway – Granted

- Chapter 235 and Falmouth Wetland Regulations (local regulations) as follows:

FWR 10.18 (5) (a) 1 – Required 100’ – Waiver Granted for 90’

FWR 10.18 (5) (a) 3 – Zone A, required 50’ width of no disturbance – Waiver for limit of disturbance proposed will be within Zone A area on Lots 1-6 and 10-13 as shown on the approved site plan – Granted; and the limit of disturbance proposed will be 5’ from the coastal bank on Lots 1 and 2 – Granted

FWR 10.18 (7) – Required 100’ buffer zone as defined in 10.18 (10) – relief requested in Zone A - The limit of disturbance proposed will be within the Zone A area on Lots 1-8 and 10-13 as shown on the site plans – Granted

FWR 10-19 Rare Species – Section (4) General Performance Standards regarding adverse impact on habitat sites of rare species. – The project locus is not within a Natural heritage and Endangered Species Program (NHESP) therefore this section is not withstanding – Relief Granted

FWR 10.58 (4) – Vernal Pools Sections (a) and (b) – Required no disturbance width of 100’ in Zone A under (a) and no new development in Zone A under (b). Proposed limit of disturbance within the Zone A area on Lots 6-8 as shown on approved site plans – Granted; and the proposed limit of disturbance will be 90’ from the limit of work on Lot 7 to the edge of the vernal pool – Granted

FWR 10.58 (4) Vernal Pools Section (d) – Requires work in vernal pool habitat to have Notice of Intent with improvement to Resource area. – No proposed mitigation plantings – Granted

FWR 10.58 (4) Vernal Pools Section (f) – Requires no project may be permitted that will have adverse effect on wildlife habitat sites of rare species. – The project locus is not within the NHESP mapping for priority or estimated rare species or wildlife – Relief Granted

FWR 2.08 Selecting a Water Quality BMP – Section (2) – Requires that no underground infiltration practices be allowed in residential subdivisions. Waiver requested as proposed underground infiltration practices to be used have been reviewed and approved by the Town Engineer, third party peer reviewer and Conservation Commission – Relief Granted

- Chapter 237 – Nitrogen Control Bylaw: Granted

Chapter 18, ss. 51-61 – Flow Neutral bylaw for Present and future sewer service areas. Referenced memorandum submitted to file dated February 20, 2018 from Frank Duffy Town Counsel to Zoning Administrator Budrow stating a variance will not be required; and a letter from Wastewater Superintendent Lowell dated November 27, 2017 to Zoning Board of Appeals noting that: “...there currently is sufficient wastewater treatment and discharge capacity for this project. – Waiver Granted.

- Applicant has requested a Waiver on the Moratorium on Worcester Court for Road Cutting – Waiver – Granted pursuant to a Street opening permit issued by the Town Engineering Division

LOT AREA AND SETBACK CHART

Comprehensive Permit #090-17
 Helmus Circle, LLC
 "Little Pond Village at Falmouth Heights"

Little Pond Village at Falmouth Heights
 Lot Area and Setback Chart - 8/16/2018

Lot Number	Frontage (ft)	HOUSES					SHEDS					Total Lot Area (sf)	Bldg Area (sf)	Building Area %	Total Impervious Area (sf)	Total Impervious Area %
		Front Setback (ft)	Side Setback (ft)	Rear Setback (ft)	Front Setback (ft)	Side Setback (ft)	Rear Setback (ft)	Front Setback (ft)	Side Setback (ft)	Rear Setback (ft)						
1	103.2	10	15	11	50	3	5	12,317	1,194	10%	1,844	15%				
2	62	13	3	10	50	3	5	4,134	1,494	36%	1,944	47%				
3	62	14	4	10	50	3	5	4,146	1,414	34%	1,914	46%				
4	62	14	5	10	50	3	5	4,159	1,494	36%	1,994	48%				
5	62	14	5	10	50	3	5	4,172	1,494	36%	1,994	48%				
6	63	14	5	10	50	3	5	4,593	1,494	33%	1,944	42%				
7	61	14	9	10	50	3	5	4,468	1,494	33%	1,944	44%				
8	62	14	3	10	50	3	5	4,213	1,494	35%	1,944	46%				
9	62	14	5	10	50	3	5	4,225	1,494	35%	1,994	47%				
10	59.9	14	5	10	60	3	2	4,605	1,494	32%	2,294	50%				
11	22.6	42	9	10	70	3	5	15,597	1,494	10%	2,094	13%				
12	26.1	121	6	190	150	3	170	20,391	1,494	7%	2,994	15%				
13	28.2	100	5	195	150	3	170	18,432	1,494	8%	2,644	14%				
14	159.2	10	12	12	37	3	5	9,234	1,374	15%	1,824	20%				
15	62	12	5	10	45	3	5	3,829	1,314	34%	1,764	46%				
16	62	11	5	11	48	3	5	4,027	1,494	37%	1,944	48%				
17	62	11	5	12	48	3	5	4,082	1,494	37%	1,944	48%				
18	62	11	4	10	47	3	5	4,007	1,494	37%	1,944	49%				
19	62	11	3	10	47	3	5	3,996	1,494	37%	1,944	49%				
20	62	11	3	10	43	3	5	3,864	1,494	39%	1,944	50%				
21	62	12	5	10	38	3	5	3,704	1,314	35%	1,764	48%				
22	62.1	10	5	10	38	3	5	3,557	1,314	37%	1,764	50%				
23	69.6	10	5	10	55	3	5	4,366	1,314	30%	1,914	44%				
24	58.6	10	7	15	75	7	5	4,666	1,830	39%	2,480	53%				
25	56.5	18	7	15	70	3	5	5,467	1,830	33%	2,530	46%				
26	51.4	25	5	21	70	3	5	5,453	1,494	27%	2,144	39%				
27	61.8	14	7	18	70	3	5	4,699	1,830	39%	2,530	54%				
28	75.5	20	5	25	70	3	5	6,557	1,494	23%	2,194	33%				
								6,320	1,486	24%	2,078	33%				
Right of Way	n/a	n/a	n/a	n/a	n/a	n/a	n/a	40,318	-	0%	34,330	85%				
								216,929	41,620	19%	92,500	43%				

Note 1: "Building Area" includes dwellings, porches, bulkheads, potential 3-season rooms and sheds.
 Note 2: "House Setbacks" include potential 3-season rooms.
 Note 3: Lots 1, 14, 24, 25 & 27 do not have potential 3-season rooms.

Comprehensive Permit Decision by Falmouth Zoning Board of Appeals continued:

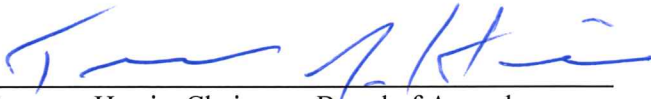
Comprehensive Permit#: 090-17

Applicant: HELMIS CIRCLE, LLC of North Reading, Massachusetts

**Subject Address: 7 Vacant Lots off Worcester Court and Helmis Circle, Falmouth, MA
Map 39 Section 16 Parcel 001A Lot(s) 003,004, 005, 006 & 007 (Helmis Cir.)
Map 39 Section 16 Parcel 001A Lot(s) 009 & 010 (Worcester Ct.)
Map 39 Section 16 Parcel 002 Lot 016 (Helmis Cir.)**

Action: The Board of Appeals, by the Chairman's signature below, represents that the Board voted as follows for the above referenced Comprehensive Permit.

Vote: Board voted 5 to 0 to Grant Comprehensive Permit requested herein based on the Findings and subject to the Conditions stated above.



Terrence Hurrie, Chairman, Board of Appeals

RECEIVED

AUG 24 2013

FALMOUTH TOWN CLERK

8:07 AM

Date Filed with Town Clerk



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