December 3, 2021

Staff Report

PB2021-25 Buck, Lower County Road/ Fairbanks Drive, W. Harwich, Alternate Access Special Permit

**Planning Comments:**

**Recommended Findings**

1. Ron and Jill Buck (“applicant”) recently purchased the vacant, undeveloped land fronting on Lower County Road, West Harwich, shown as “Lot 1” on an “Approval Not Required Plan” endorsed by the Planning Board September 14, 2021 and recorded with the Barnstable Registry of Deeds in Plan Book 692 Page 42.[[1]](#footnote-1) The land is in the RH-1 zoning district. (“subject property”)
2. The applicant is preparing to build a residence on the subject property and would like to access the property from Fairbanks Drive rather than from the property’s legal frontage on Lower County Road.
3. Fairbanks Drive is a 50’ wide private subdivision road; the travelled way within the road layout is dirt and approximately 12’ feet wide. The applicant appears to have a deeded right of way in Fairbanks Drive (See deed recorded with the Barnstable Registry of Deeds in Deed Book 34533 Page 77).
4. The subject property has the minimum required legal frontage along Lower County Road, which is an improved public way.
5. The subject property also has frontage on Fairbanks Drive but less than the minimum required in the applicable RH-1 zoning district.
6. To authorize exclusive and principal access from Fairbanks Drive to serve the proposed residence rather than access over the subject property’s legal frontage on Lower County Road, the applicant has applied for an ‘Alternate Access’ special permit under section 325-18K.
7. The proposed alternate access meets the applicable criteria set out in said sections 325-18K and 325-51:
	1. The proposed access is superior to the access over the subject property’s legal frontage:
		1. Fairbanks Drive is a low-volume, low-speed roadway and has few points of potential traffic safety conflicts such as sidewalks, intersecting roads and driveways;
		2. Fairbanks Drive is relatively short in length and connects to Riverside Drive, an improved public way;
		3. Fairbanks Drive only serves or has the potential to serve five (5) or fewer building lots;
		4. Lower County Road has a curve where the driveway access to the subject property would otherwise be located, creating less than optimal vehicle sight-lines or stopping distance;
		5. Access from Fairbanks Drive will allow the applicant to retain the continuous, existing vegetated buffer on the subject property along its boundary with Lower County Road, in turn helping to preserve the existing desirable aesthetics and character of the surrounding area.
		6. Access from Fairbanks Drive avoids physical disturbance or disruption to Lower County Road or to the public sidewalk along Lower County Road along the subject property’s frontage.
	2. There is an existing continuous cleared area of at least 16’ wide and 16’ high from Riverside Drive along Fairbanks Drive into the subject property to allow for vehiclular access.
	3. The access driveway proposed to serve the subject property from Fairbanks Drive will be at least 12’ wide.
	4. The proposed Alternate Access will not adversely affect the neighborhood, is an appropriate use under the circumstances and will not create nuisance or serious hazard to vehicles or pedestrians.
8. The Applicant’s special permit application is dated November 5, 2021 and meets the applicable requirements of the Harwich Code. Among other things, the application includes:
* Locus Address Fairbanks Drive, Plan Reference: Pl. Bk. 692 Pg. 42 (Lot 1), Existing Conditions Plan of Land in West Harwich, Massachusetts prepared for Ronald Buck by Paul E. Sweetser, PLS stamped and dated November 20, 2021, scale 1”=50’.
1. The Planning Board held a duly-noticed public hearing on the request at its meeting on December 14, 2021.

**Recommended Conditions of Approval**

1. The proposed access for the subject property shall be undertaken consistent with the plan referenced in the application material set out above. Specifically, and without limitation, the access driveway for the subject property shall be maintained to at least 12’ wide, within a surrounding cleared area of at least 16’ wide and 16’ high.
2. A continuous 20’ wide buffer of existing vegetation shall be retained along the subject property’s boundary with Lower County Road, in the area shown as “20’ Buffer Strip” on the plan referenced in the application material set out above.
3. Prior to issuance of a building permit for the residence on the subject property, the applicant shall consult with the Police and Fire Departments to identify whether there are improvements, such as grading, surfacing or a clearing, reasonable and necessary to facilitate emergency vehicle access and response to the subject property. Prior to issuance of a Certificate of Occupancy for the residence on the subject property, the applicant shall implement any such improvements identified by Police and Fire, and thereafter maintain the same.
4. This Decision shall run with the property.
5. This Decision shall not be effective until it is recorded with the Barnstable County Registry of Deeds.

**Recommended Motions/ Determinations**

In Case No. 2021-025, Motions to:

1. Close the public hearing; and
2. Adopt the recommended findings and conditions of approval set out herein and grant an “Alternate Access” special permit for Ronald and Jill Buck/ Fairbanks Drive, West Harwich, subject to said conditions.

***Staff Note:***

* Use Special Permit: A supermajority vote is necessary to approve (5 affirmative votes of full/ regular members).
1. The Assessors Department has not yet processed or reflected in its database the lot reconfiguration presented in said ANR plan. The subject property includes portions of land previously addressed as 30 Lower County Road, 40 Lower County Road and 0 Fairbanks Drive, respectively, Assessors Parcel ID Nos. 3-W2-5, 3-W3 and 3-W2-6. [↑](#footnote-ref-1)