

Zoning Board of Appeals Decisions Decisions for: 06-05-2014

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DECISION OF FALMOUTH ZONING BOARD OF APPEALS

SPECIAL PERMIT NO: 37-14

APPLICANT/OWNER: WILLIAM ZAMMER, JR., TRUSTEE JONES POND REALTY TRUST of Falmouth, MA

DEED/CERTIFICATE: Book 10206 / Page 99

SUBJECT PROPERTY: 311 Gifford Street, Falmouth, Massachusetts
Map 38, Section 09, Parcel 001, Lot 001A

Under a date of April 17, 2014, the applicant applied to the Zoning Board of Appeals for a Modification of Special Permits 122-96 and 36-99, pursuant to Section(s) 240-3 and 240-216 of the Code of Falmouth to construct a two-story addition to the existing building known as the Coonamessett Inn to increase an existing office area on first floor and increase a bathroom in a hotel unit on second floor on subject property located at 311 Gifford Street, Falmouth, Massachusetts.

A public hearing was held on June 5, 2014. 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.

Board Members sitting: Chairman David Haddad, Vice Chairman Kenneth Foreman, Clerk Scott Zylinski, Member Matthew McNamara and Member Patricia Johnson

Clerk Zylinski read the Notice of Public Hearing into the record.

Michael McGrath, P.E. and P.L.S with Holmes and McGrath, Inc. was present on behalf of the applicant and reviewed the proposed plan. He explained to the Board that property is used as an Inn with a full restaurant that has existed for many years and that the owner would like to add a 12' x 14' two-story addition off the rear of the existing office as shown on the plan. The addition will increase the existing office on the first floor and increase an existing bathroom within a unit on the second floor. The proposed is not visible from the front of the Inn and does not increase the capacity of the Inn. It is a small addition and will not create any new nonconformities on subject property.

Clerk Zylinski read the Town Department referrals into the record.

A referral submitted by the Conservation Commission states: RDA scheduled for review by ConCom on 5/7/2014.

Referrals submitted by the Planning Department, Building Department and Water Department had no comment.

Clerk Zylinski read into the record correspondence via e-mail to the Zoning Administrator from the Fire Department that as the existing Inn has a fire sprinkler system it will need to be extended to the addition; no other concerns at this time.

The Board of Health sent an e-mail to the Zoning staff stating that they have no issues with the project.

The Board received two letters from the Design Review Committee stating they reviewed the project and have no issues and that they recommend the plan to the Zoning Board of Appeals.

Chairman Haddad asked if anyone present would like to speak in favor or opposition.

There was no public comment.

The Board asked questions of the applicant's representative.

Mr. McGrath answered the Board's questions.

Member McNamara made a motion to close the hearing. Member Foreman seconded the motion. Motion carried 5 – 0.

Chairman Haddad 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 311 Gifford Street contains 4.3 acres of Residential C zoned land that is not located within any overlay district. The existing structure on subject property encroaches into the 25' setback off Jones Road pursuant to Section 240-68 A. of the Code of Falmouth; and there are detached structures on the North side of the property that do not meet the 10' setback to a side yard property line pursuant to Section 240-68 B. of the Code of Falmouth. Also, the total lot coverage by structures, parking and paving exceed the maximum 40% allowed in a Residential District pursuant to Section 240-69 A. of the Code of Falmouth. The applicant applied under Section(s) 240-3 and 240-216 of the Code of Falmouth to modify previous Special Permits 122-96 and 36-99 to construct a 12' x 14' two-story addition at the southeast corner of the most southerly portion of the existing Inn structure. The addition is to increase the existing office space within the Inn on the first floor and to increase an existing bathroom within a unit on the second floor. The addition does not create any new nonconformities; however, it does increase the nonconformity lot coverage by structures, parking and paving slightly [47.5% to 47.6%].

Section 240-3 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 addition to the pre-existing nonconforming structure on subject property used as an Inn is not substantially more detrimental than what currently exists. The Board further finds that the addition will not be visible from the entrance of the Inn and will not impact any view from the side of the building off Jones Road.

The Board finds that the addition does not increase the lot coverage by structures beyond the maximum 20%. The Board further finds that the addition will minimally increase the nonconforming lot coverage by structures, parking and paving from 47.5% to 47.6%.

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 12' x 14' addition as it does not increase an existing setback, it does not create any new nonconformity and the lot coverage by structures, parking and paving will be increased very slightly.
- B. The site is suitable for the proposed use which has operated as an Inn and restaurant for many years and consists of over four acres.
- C. There will be no impact on traffic flow and safety as there is no increase in the number of bedrooms on the property and there is no change in the location of the existing driveway on site.
- D. The visual character of the subject property will be unchanged 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 is in place and signed off by the Board of Health.
- F. There are adequate utilities to subject property by virtue of an existing operation for many years on site.
- G. The proposed addition to the existing Inn discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.
- H. There was no Site Plan Review required by the Planning Board and the referral submitted to the file from the Planning Department had no comment.
- 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.

Member McNamara made a motion to Grant the Special Permit with conditions. Member Zylinski seconded the motion.

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 5 – 0 to Grant the Special Permit, modifying previous Special Permits # 122-96 and 36-99 to William Zammer, Jr., Trustee (herein referred to as Applicant) under Section(s) 240-3 and 240-16 of the Code of Falmouth to construct a 12' x 14' addition to the existing structure on subject property known as 311 Gifford Street, Falmouth, Massachusetts. This special permit is subject to the following conditions:

1. The construction of the 12' x 14' addition, its location, all setbacks, lot coverage and use of addition shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

- "Plan of Proposed Addition" prepared for Coonamessett Inn, Inc. 311 Gifford Street in Falmouth, MA – Sheet 1 of 1 drawn by Holmes and McGrath, Inc. dated April 4, 2014 with a Board date 'received' stamp of April 17, 2014; and
- Computer generated plans consisting of 2 pages – page 1 shows Right Side Elevation and Rear Elevation; and page 2 shows Proposed First Floor Plan and Proposed Second Floor Plan – both with a Board date 'received' stamp of April 17, 2014.

2. There shall be no derogation whatsoever from any conditions set forth in Special Permit #122-96 and #36-99 except as stated herein.

3. 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.

4. 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.)

5. 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: 37-14

Applicant: WILLIAM ZAMMER, JR., TRUSTEE

Subject Property: 311 Gifford Street, Falmouth, Massachusetts
Map 38, Section 09, Parcel 001, Lot 001A

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 Special Permit – modifying Special Permit 122-96 and 36-99, as represented to the Board, based on the Findings stated herein and with the above stated Conditions.

David Haddad, Board Chairman

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.

Notes:

SP 37-14 Jones Pond Rlty Tr / 311 Gifford St / addition posted to web 6/17/14 mm