

## Zoning Board of Appeals Decisions Decisions for: 05-01-2014

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DECISION OF FALMOUTH ZONING BOARD OF APPEALS

SPECIAL PERMIT NO: 119-13

APPLICANT(s): JOAN R. REDDEN and ROBERT B. REDDEN of Falmouth, MA

OWNER(S): Joan R. Redden

DEED/CERTIFICATE: Certificate 159409 – Plan 7174-B (Sheet 1)

SUBJECT PROPERTY: 18 Ocean View Avenue, North Falmouth, MA  
Map 04, Section 05, Parcel 000, Lot 002

Under a date of December 16, 2013 the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-69 of the Code of Falmouth to construct a two-car attached garage to the existing single-family dwelling exceeding the 20% maximum lot coverage by structures on subject property located at 18 Ocean View Avenue, North Falmouth, Massachusetts.

A public hearing was opened on February 27, 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. The applicant had submitted a signed waiver, filed with the Town Clerk, extending the 65 day opening of a public hearing process to allow for a hearing to be held on February 27, 2014. The hearing was opened on February 27, 2014, testimony was given and the Board voted unanimously to continue the hearing for further information to May 1, 2014 at 6:30 pm., wherein the hearing was closed with a decision of the Board rendered.

Board Members sitting: Chairman David Haddad, Acting Clerk Matthew McNamara, Member Patricia Johnson, Associate Kimberly Bielan and Associate Mark Cool

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

Greg Siroonian, Architect and agent for the applicant was present and reviewed the existing site conditions and proposed two-car garage addition with habitable space on a second level. He explained that the lot is 11,250 square feet and the proposed will exceed the 20% maximum lot coverage allowed by structures in this residential district by .96%. Mr. Siroonian explained that the initial plan was under 20% but it made the garage really tight for RV and cars to maneuver; they tried different configurations. The proposed plan is to move a septic component to accommodate the addition. The septic system will be increased to allow for five bedroom capacity. He stated that the height of the proposed addition is not taller than the existing dwelling and is within setbacks.

Clerk McNamara read the Town Department referrals into the record.

A referral submitted by the Engineering Department had standard comments that included: Ocean View Avenue is a Public right of way and Weston Rd is a Private right of way in this area..... The project cannot direct any stormwater runoff to public property or right of ways.

A referral submitted by the Conservation Commission states: Stormwater from new garage should stay on property, not be directed down driveway to Ocean View Ave. Drywells. Pitch roof away from drive.

A referral submitted by the Water Department stated: 1" service ok.

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

Clerk McNamara noted that there is one letter of support from Mary Anne Conboy of 21 Ocean View Avenue.

Clerk McNamara noted a letter from Eladio Gore, Building/Zoning Commissioner to John Doyle, R.L.S.,

stating that the primary frontage for this property will be Ocean View Avenue and Weston Road shall be viewed as a side yard.

Clerk McNamara read an e-mail from the Board of Health Agent to the Zoning Administrator regarding the subject property verifying the five bedroom septic.

Board Questions/Concerns:

Member Foreman asked how, under Section 240-69 E., the lot coverage and the bulk compares with the adjacent properties.

Mr. Siroonian stated that this lot is larger than most in area and the increase being requested over 20% is small percentage.

Member Johnson commented that the proposed garage at 10' from the side property will be additional bulk to site.

Mr. Siroonian said that the street is farther away from the lot line; the street is 11' farther from property line.

Member Cool asked if the side parking area will remain the same and used as parking.

Mr. Siroonian stated yes.

Member Cool asked if drainage will be contained on site.

Mr. Siroonian stated yes – the drywell locations are on the plan.

Chairman Haddad asked if the existing dwelling is four bedrooms and the addition will increase it to a five bedroom dwelling.

Mr. Siroonian stated yes.

Chairman Haddad asked if the applicant had given any consideration to keeping lot coverage by structures below the maximum amount allowed by right.

Mr. Siroonian stated that the garage is necessary and is proposed for best use and convenience for the RV and vehicles.

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

There was no public comment in support or opposition to the proposed addition to 18 Ocean View Avenue.

Board discussed:

Member McNamara said that information regarding neighborhood is critical; the lot lines were not staked and hard for members to see exactly where in relation to the property line the addition is; the proposed two-car garage with a second story appears to add a lot of bulk to the property - this is a substantial increase and this would be the largest dwelling in the area. He said without neighborhood information regarding lot coverage and comparison he would be inclined to vote in opposition to application.

Member Johnson said that Weston Road is a dead end and that she does not feel badly about the bulk.

Member Foreman felt that this is a looming addition and it is too much and .96% may not seem that much – on a corner lot it could be. He said until the Board has some data on neighborhood he does not want to give opinion.

Member Cool echoed Member Johnson's comments. The average neighborhood property is smaller; there are huge properties on Weston; he feels the bulk is in keeping with the neighborhood and would be inclined to approve.

Member Bielan said she agrees with all members but feels this will be imposing and that she would need more data to make a decision.

Chairman Haddad said he doesn't think the data will change his mind as he feels that the two story, two-car garage addition will be substantial increase; a one-car garage would be less imposing – but proposed adds substantial bulk right on a corner lot.

Member McNamara commented that the Board is required to look at the neighborhood and compare height, bulk and lot coverage. Without the staking and data on neighborhood it is not possible to make a determination.

The Board asked the applicant's representative to submit data regarding property sizes and lot coverage in the area for comparison and to stake the property line for reference from proposed structure to street.

Member Foreman made a motion continue the hearing to May 1, 2014 at 6:30 PM. Member McNamara seconded the motion. Motion carried 5 – 0.

Board voted 5 – 0 to continue the hearing to May 1, 2014 at 6:30 PM.

Continuation: May 1, 2014 – 6:30 PM, Selectmen's Meeting Room

#119-13 Redden, 18 Ocean View Ave., No. Falmouth, MA

Members sitting: Chairman Haddad, Acting Clerk McNamara, Member Johnson, Associate Bielan and Associate Cool

Greg Siroonian, Architect was present on behalf of the applicant and reviewed information he had submitted to the file on April 28, 2014 that had a map of the surrounding neighborhood of subject property showing the lot sizes, approximate building size and approximate lot coverage with photos of said properties and dwellings. His list consisted of 8 properties on Ocean View Ave., 2 on Weston Road and 9 on Grove Street.

Board Questions:

Member McNamara asked if you were to keep within the 20% how would the project be reduced.

Mr. Siroonian stated that he would 'shrink' the addition – same project, just scaled down.

Chairman Haddad said that during his site visit he saw quite a few ranch style structures on Weston and Ocean View Avenue and smaller lots so the lot coverage would be up towards or over maximum by right percentage. He said the bulk still appears to be substantial and asked if any thought was given since last hearing as to a one story addition.

Mr. Siroonian said they want to keep the plan with two-story and will just scale back if necessary.

Member McNamara said that the Board of Health weighs in on septic design and capacity but it is this Board's responsibility according to Section 240-69 E. to weigh in on any effect of nitrogen on coastal embayments. He asked if the fifth bedroom proposed will have any effect.

Mr. Siroonian stated that the septic system will be relocated and that it will be in compliance.

Member Johnson reviewed the Board of Health e-mail to Zoning Administrator.

Chairman Haddad asked if there is anyone present that would like to speak in support or opposition to this application.

Mary Conboy of 21 Ocean View Avenue said she is in support and stated that the neighborhood is growing and options in our homes change the older we get.

Board discussed:

Member Johnson said she likes the area and the way it was laid out in 1898, the neighborhood is changing and the houses are getting larger.

Member McNamara said the bylaw regarding lot coverage is what the Board is responsible to look at; the bylaw was 35% for lot coverage by structures until 2003 when the Town voted it to be 20% [current maximum by structures allowed – 240-69 A.] – there was a reason this was done. The Board also has to take into consideration shadow effect, impact on view or vista, bulk and size of a structure in comparison with the neighborhood and effect on nitrogen. He said there does not appear to be any shadow on adjacent lot, there may not be any impact to view or vista and effect on coastal embayments was not addressed by applicant. This structure will be increased substantially and the bulk of this structure will be very evident on this corner lot.

Member Bielan said bulk is a concern, parking may not change but would improve appearance if garage is used – would vote in favor.

Member Cool said it is a matter of perception and comparing lot coverage – he is in favor.

Chairman Haddad said this is a corner lot – the structure will be greatly increase, still feels a one-story would be more appropriate but would also add bulk to this corner lot. He said Weston Road and Ocean View Avenue have several ranch dwelling and not all on double lots as stated. He said he is not in favor.

Member Johnson stated that New Silver Beach is now sewerred and is fairly close by and may help in effects to coastal embayments.

Member Johnson made a motion to close the hearing. Member Cool seconded the motion. Motion carried 5 - 0.

Chairman Haddad closed the Hearing.

Member Johnson made a motion to Grant the Special Permit with conditions. Member Cool seconded the motion. Member Johnson and Cool discussed conditions for the Decision.

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 3 – 2 to Grant the Special Permit to Robert and Joan Redden (herein referred to as Applicant) under Section(s) 240-69 of the Code of Falmouth to exceed the 20% lot coverage by structures through construction of an addition to the single-family dwelling on subject property known as 18 Ocean View Avenue, North Falmouth. The motion did not carry with a 3 – 2 vote.

Board vote: Member Johnson, Member Bielan and Member Cool voted to grant the special permit. Chairman Haddad and Member McNamara voted in opposition to the special permit. Special Permit denied.

Decision of the Falmouth Zoning Board of Appeals Continued:

Special Permit Number: 119-13

Applicant: ROBERT and JOAN REDDEN of North Falmouth, MA

Subject Property: 18 Ocean View Avenue, North Falmouth, Massachusetts  
Map 04, Section 05, Parcel 000, Lot 002

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

follows for the above referenced:

Vote: 3 – 2 to Grant the Special Permit. Motion did not carry – Special Permit Denied.

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David Haddad, Board Chairman

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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 119-13 Redden / 18 Ocean View Ave / Add'n - motion not carried / posted to web 5/13/14 mm