

Zoning Board of Appeals Decisions Decisions for: 02-20-2014

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DECISION OF FALMOUTH ZONING BOARD OF APPEALS

SPECIAL PERMIT NO: 5-14

APPLICANT: JENNIFER C. SNYDER, TRUSTEE of Boston, MA

OWNER: Jewett Realty Trust Number Three

DEED/CERTIFICATE: Certificate 191746, Lots 5 & 6 – Plan 5985-D

SUBJECT PROPERTY: 69 Bar Neck Road, Woods Hole, Massachusetts
Map 49A, Section 06, Parcel 047, Lot 005

Under a date of January 10, 2014, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. and 240-68 D. of the Code of Falmouth to construct small second floor addition(s) and alteration of existing second floor deck on the pre-existing nonconforming single-family dwelling located at 69 Bar Neck Road, Woods Hole, Massachusetts.

A public hearing was held on February 20, 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, Clerk Scott Zylinski, Member Matthew McNamara, Member Patricia Johnson and Associate Mark Cool

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

Michael McGrath, P.E. & P.L.S. with Holmes and McGrath, Inc. was present on behalf of the Applicant and reviewed the existing site conditions and proposed additions to the pre-existing nonconforming single-family dwelling on the property. The pre-existing nonconforming single-family dwelling is late 1950's circa and is in a velocity zone. Mr. McGrath explained that they are allowed a 200 square foot addition but it must be elevated above the flood zone. Proposed is a small addition on the west side at the second floor to increase the kitchen area slightly; a shallow porch in the front at second level to increase existing deck and an addition at the second level on the east facade will create a study and renovation of an existing interior stairway. There are areas of pavement on site that will be removed and replaced with lawn and/or pavers for walkways. The proposed hot tub will be located within the existing concrete patio area. There is proposed reinforced grass at the front of the property adjacent to driveway for additional parking space. The lot coverage by structures proposed will be at 12.3% and the total lot coverage will be 20% - both well under maximum allowed by code. The driveway will be increased to 24' wide and the applicant will comply with driveway apron as requested by Town engineers.

Clerk Zylinski read the Town Department referrals into the record.

A referral from the Engineering Department had standard comment plus: No drywell sizing calculations [were] not provided. There doesn't appear to be any stormwater provisions for the proposed paved driveway. The cobble apron is not allowed within public right of ways, please revise to asphalt or concrete for the first 5 feet as is required by the Driveway Permit Application requirements.

A referral from the Board of Health notes that the property is Town sewered.

A referral from Conservation Commission states: Note: Pending Order of Conditions that will be issued within 21 days of 1/15/2014.

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

Clerk noted that there was no correspondence from abutters or interested parties submitted to the file.

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

Veronica Zylinski of East Falmouth stated support of the proposed project.

Member McNamara made a motion to close the hearing. Member Zylinski 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 69 Bar Neck Road in Woods Hole contains 12,700 square feet of Residential C zoned land that is not located within any overlay district. The applicant applied under Section(s) 240-3 C. and 240-68 D. of the Code of Falmouth to construct a small addition to the westerly second story façade, an addition to the second story east façade and addition to the existing deck on the front façade of the pre-existing nonconforming single-family dwelling on subject property, as well as a hot tub that will be located within the existing concrete patio on first level at rear of dwelling. The dwelling has a nonconforming setback to the westerly side yard property line of 6.7' that requires a 10' setback under Section 240-68 B. of the Code of Falmouth. The shed located along the westerly side yard property line also has a nonconforming setback of 1.7' that requires a 3' setback to a side or rear property line. Lot coverage by structures and structures parking and paving are below the maximum percentage allowed pursuant to Section 240-69 A. of the Code of Falmouth. The proposed additions do not increase the number of bedrooms on subject property and according to the Board of Health the property is on Town sewer. The applicant applied under Section 240-68 D. which requires a 50' setback to the waters of Buzzards Bay. There is an existing manmade coastal bank, board walk and stairs that encroach the setback requirement and therefore nonconforming. This encroachment is not impacted by the proposed additions to the dwelling on subject property.

Section 240-3 C. 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 additions to the pre-existing nonconforming single-family dwelling as discussed and represented herein are not substantially more detrimental than what currently exists. The Board further finds that the additions do not increase the existing nonconformities, nor will they create any new nonconformity on subject property. Furthermore, the proposed additions will enhance the front façade of the dwelling.

The Board finds through testimony that the applicant will comply with the Engineering Department's request regarding the first five (5) feet of the driveway [apron] off the public right of way and will revise the plan eliminating the pavers and use concrete or asphalt.

The Board finds that the applicant did apply to the Conservation Commission and received approval through an "Order of Conditions" determination dated February 20, 2014 (see file).

The Board finds through testimony by Michael McGrath, P.E., P.L.S. [applicant's representative] that he will submit information regarding drywells/drainage for subject property.

In addition to the above findings, the Board finds that the proposed additions to the pre-existing nonconforming single-family dwelling on subject property 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 additions as there will be no increase in existing setback nonconformities noted herein and there will be no additional nonconformities created through the proposed additions.

B. The site is suitable for the proposed use as the property is zoned residential and has been used as

such since inception.

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, however, the existing driveway will be widened.

D. The visual character of the subject property will be improved 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 subject property is on the Town sewer system as noted by the Board of Health in a referral submitted to the file.

F. There are adequate utilities to subject property by virtue of an existing dwelling on site.

G. The proposed additions to the dwelling 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 Cool made a motion to Grant the Special Permit with conditions. Member Johnson 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 to Jennifer C. Snyder, Trustee of Jewett Realty Trust Number Three (herein referred to as Applicant) under Section(s) 240-3 C. and 240-68 D. of the Code of Falmouth to construct small additions to the second level (3 facades) of the pre-existing nonconforming single-family dwelling on subject property located at 69 Bar Neck Road, Woods Hole, Massachusetts. This special permit is subject to the following conditions:

1. The three additions to the second level of the dwelling, the hot tub, all setbacks, lot coverage and use of dwelling shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

- "Plan of Existing Conditions" prepared for Jewett Realty Trust Number Three for Lots 5 & 6, #69 Bar Neck Road in Woods Hole, MA drawn by Holmes and McGrath, Inc. – Sheet 2 of 2 dated December 16, 2013 – with a Board date received stamp of 1/13/14;
- "Plan of Proposed Additions" prepared for Jewett Realty Trust Number Three for Lots 5 & 6, #69 Bar Neck Road in Woods Hole, MA drawn by Holmes and McGrath, Inc. – Sheet 1 of 2 dated December 16, 2013 with a final revision date of 1/13/14 and with a Board date 'received' stamp of 1/13/14; and
- "Carr Residence – Renovation" architectural plans drawn by Ivan Bereznicki Associates, Inc. Architect consisting of Drawing D2.1 'Existing Demo Floor Plans' dated 1/08/14 with a Board date 'received' stamp of January 10, 2014; Drawing A2.1 'Proposed Floor Plans' dated 1/08/14 with a Board date 'received' stamp of January 10, 2014; and Drawing A3.1 'Exterior Elevations' dated 1/08/14 and with a Board date 'received' stamp of January 10, 2014.

2. The applicant shall eliminate the cobble apron at driveway and use either asphalt or concrete for first five (5) feet of driveway off the public right of way as requested by the Engineering Department (see referral submitted).

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: 5-14

Applicant: JENNIFER C. SNYDER, TRUSTEE of Boston, MA

Subject Property: 69 Bar Neck Road, Woods Hole, Massachusetts
Map 49A, Section 06, Parcel 047, Lot 005

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 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 5-14 Snyder / 69 Bar Neck Rd, WH / 2nd floor add'n(s) posted to web 2/28/14 mm