

Zoning Board of Appeals Decisions Decisions for: 01-09-2014

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DECISION OF FALMOUTH ZONING BOARD OF APPEALS

SPECIAL PERMIT NO: 106-13

APPLICANT/OWNER: JAMES P. BLESSINGTON and PATRICIA BLESSINGTON
of Walpole, MA

DEED/CERTIFICATE: Certificate 195782 – Lots 47, 50 and 51 – Plan 4286-A (PI 7)

SUBJECT PROPERTY: 64 Harrington, Teaticket, Massachusetts
Map 39A, Section 13, Parcel 000, Lot 047

Under a date of November 8, 2013, the Applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 and 240-69 E. of the Code of Falmouth to construct a 17.5' x 22' addition, creating a master bedroom, to the pre-existing nonconforming single-family dwelling located at 64 Harrington Street, Falmouth, Massachusetts.

A public hearing was held on January 9, 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 Matthew J. McNamara, Vice Chair Kenneth Foreman, Clerk Scott Zylinski, Member Patricia Johnson and Member David Haddad

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

Applicant Mr. Blessington was present and said that they purchased the house through bank and it is an 864 square foot, two-bedroom, one bathroom, single-story dwelling. He explained that they want to retire in this dwelling and they are downsizing from a 3,000 square foot dwelling in Walpole. They would like to add a master bedroom with a $\frac{3}{4}$ bath on to the existing dwelling that would be constructed to the northwest rear half of the existing dwelling. The construction would also include, within this addition, a stairway to the existing and proposed basement. The existing bulkhead located on the rear façade of dwelling will be relocated slightly westerly of existing location to accommodate the addition. Mr. Blessington stated that the addition is within required setbacks and the Board of Health had no objection to the third bedroom. He further stated that the immediate abutters have reviewed plans and are in support (see file).

Clerk Zylinski read the Town Department referrals into the record.

Referrals submitted from the Board of Health, Engineering Department (standard reply), Conservation Commission, Planning Department and Water Department had no comment.

Clerk Zylinski noted two letters of support submitted to the file from Julie and Robert Dateo of 63 Randolph Street and William and Barbara Cullen of 60 Harrington Street (immediate abutter).

Clerk Zylinski also noted submission by Attorney Laura Moynihan, on behalf of Mr. Blessington, copies of four special permits on properties in the general vicinity that the Board had granted: 1 special permit had a decrease in lot coverage from existing 23% to 21%; two granted an increase of lot coverage existing below 20% to exceed the 20% maximum; and the fourth special permit granted an increase of lot coverage by structures from a nonconforming 20.6% to 24.5%.

Board Questions:

Member Haddad asked how many existing bedrooms and proposed bedrooms, basement use and if there is any drainage proposed.

Mr. Blessington stated that there are two bedrooms existing and the addition will create a third bedroom.

He said the basement is storage and mechanical area and regarding drainage he said he had put in reflection spout and drainage will be according to plan.

Member Haddad asked if there will be any accessory structures proposed on the property.

Mr. Blessington stated no.

Member Foreman asked if there was any other work proposed within the dwelling or on the property.

Mr. Blessington stated no. He explained that this is their retirement home and will be used year round.

Member Zylinski asked if the attached shower had a drain.

Mr. Blessington said the shower has been there for sixty (60) years and he is not sure of drain – it does have gravel.

Chairman McNamara asked if roof runoff is maintained on site.

Mr. Blessington stated it is – there has been no flooding experience in basement.

Chairman McNamara explained Section 240-69 E. regarding increase in lot coverage by structures and asked Mr. Blessington if he had any examples of the general vicinity and properties with similar issues.

Attorney Moynihan, on behalf of Mr. Blessington, submitted photos of 25 Harrington, 97 Priscilla and a Great Bay property all within the area with lot coverage over 20%. She also noted a GIS map that shows sizes of properties with structures noting how subject property is in kind.

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

William Cullen of 60 Harrington, immediate abutter stated he is in support and that Mr. Blessington is a good neighbor and the proposed addition is at the rear of the dwelling and cannot be seen from the roadway so there is no adverse impact.

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

Chairman McNamara 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 64 Harrington Street contains 7,200 square feet of Residential C zoned land that is located within the Little Pond/Great Pond Coastal Pond Overlay District. The Applicant applied under Section(s) 240-3 and 240-69 E. of the Code of Falmouth to allow an addition to the pre-existing nonconforming single-family dwelling on subject property that will increase the lot coverage by structures to exceed the 20% maximum allowed in a residential district. The existing dwelling has a nonconforming setback from the existing front porch to the front yard property line off Harrington Street of 23.3' where a 25' setback is required pursuant to Section 240-68 A. of the Code of Falmouth. Lot coverage by structures exists as conforming at 16.7% pursuant to Section 240-69 A. of the Code of Falmouth that requires a 20% maximum lot coverage by structures in a residential district. However, under Section 240-69 E. of the Code of Falmouth, a property owner can request a special permit to increase lot coverage up to 25% which may be granted by the Board of Appeals after said board takes into consideration whether the proposed structure's size and height is in keeping with the average size and height of structures in the neighborhood; if there is any effect of shadow from proposed on adjacent property; if there is an impact on a view or vista from a public roadway; and if there is any effect of nitrogen on a coastal embayment. The existing dwelling is a one-story two-bedroom single-family dwelling and the Applicant is proposing to construct an addition at the rear corner of the dwelling to create a master bedroom with a $\frac{3}{4}$ bathroom and create an interior stairway to the basement.

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 of a master bedroom with $\frac{3}{4}$ bath and interior stairway to basement at the pre-existing nonconforming dwelling is not substantially more detrimental than what currently exists. The Board further finds that the proposed addition of a bedroom does not increase the existing nonconforming front yard setback and does not create any additional nonconforming setbacks. Furthermore, the Board finds that the Board of Health has no objection to the bedroom addition as the Applicant was capable of showing a reserve area on the plan submitted and discussed herein.

The Board finds that two abutters submitted letters in support of the proposed project and there were no letters or comments in opposition.

The Board finds that the proposed addition will increase the conforming lot coverage by structures exceeding the maximum of 20% allowed under Section 240-69 A. of the Code of Falmouth. The Board further finds that the Applicant applied for relief under Section 240-69 E. of the Code of Falmouth to allow the lot coverage by structures to be increased to 22.3%. Furthermore, the Board finds, after consideration of Section 240-69 E. of the Code of Falmouth, that the proposed application for an addition to the rear of the pre-existing nonconforming single-family dwelling to create a master bedroom is in keeping with the size and height of existing and neighboring structures; that the proposed does not have any shadow effect on adjacent properties; that the proposed addition does not impact any view from a public roadway; and that there is no effect on any coastal embayment.

The Board finds that the Applicant, through testimony, understands that all storm water runoff shall be contained on subject property and the Applicant shall take measures to insure containment of said storm water.

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 of the criteria 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 bedroom addition to the pre-existing nonconforming single-family dwelling as it does not increase the existing nonconforming setback or create any new nonconforming setback; and the lot coverage by structures increase is allowed through special permit under Section 240-69 E. – see above finding.
- 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 through the addition of one bedroom to the existing two-bedroom dwelling 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 as the addition is at the rear of the property and not visible from the roadway 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 has been reviewed by the Board of Health Agent – see referral submitted to the file.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site.
- G. The proposed bedroom addition 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 Foreman 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 to James

P. Blessington (herein referred to as Applicant) under Section(s) 240-3 and 240-69 E. of the Code of Falmouth to construct an addition creating a master bedroom for the pre-existing nonconforming single-family dwelling on subject property known as 64 Harrington Street, Teaticket, Massachusetts. This special permit is subject to the following conditions:

1. The construction of the bedroom addition with stairs to the basement, all setbacks, lot coverage, height of proposed addition and use of addition and basement shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

- "Certified Plot Plan" prepared for James P. Blessington at 64 Harrington Street in Falmouth, Massachusetts, drawn by Costa Associates, Inc., Sheet 1 of 1 dated 3/21/13 and revised on 11/1/2013 with a Board date 'received' stamp of November 8, 2013; and
- "Proposed Addition For 64 Harrington Rd. East Falmouth, Mass" architectural plans drawn by J. Rogers consisting of Drawings 1 of 5 through 4 of 5 all dated 10/3/2013 showing Elevations, Floor Plan, Basement/Foundation Plan and Cross Section – all with a Board date 'received' stamp of November 8, 2013.

2. There shall be no more than three bedrooms allowed on subject property.

3. There shall be no bedrooms or sleeping accommodations created within the basement area(s).

4. There shall be no accessory structures located on the subject property without approval from the Board of Appeals.

5. Storm water shall be maintained on subject property.

6. 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 any said change. Minor changes may be administratively approved by the Zoning Administrator.

7. 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.)

8. 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: 106-13

Applicant: JAMES P. BELSSINGTON AND PATRICIA BLESSINGTON
of Walpole, MA

Subject Property: 64 Harrington Street, Teaticket, Massachusetts
Map 39A, Section 13, Parcel 000, Lot 047

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.

Matthew J. McNamara, 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 #106-13 Blessington / 64 Harrington / Add'n posted to web 1/15/14 mm