

## Zoning Board of Appeals Decisions Decisions for: 06-25-2015

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 42-15

APPLICANT(S)/OWNER: PETER G. JOYAL of Falmouth, MA

DEED/CERTIFICATE: Book 14082 / Page 57

SUBJECT PROPERTY: 22 Meadow Lane, Falmouth, MA  
Assessor's Map: Map 47A, Section 16, Parcel 074, Lot 006

SUMMARY: Granted with Conditions

### PROCEDURAL HISTORY

1. Under a date of May 4, 2015 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 one-story bedroom addition between existing dwelling and detached garage (connecting structures) on subject property known as 22 Meadow Lane, Falmouth, Massachusetts.
2. 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.
3. A duly advertised public hearing was opened on June 11, 2015.
4. The public hearing was terminated on June 25, 2015 wherein the Board consisting of Chairman Kenneth Foreman, Vice Chair Kimberly Bielan, Clerk Terrence Hurrie, Member Ed Van Keuren and Member Paul Murphy made a decision to Grant the Special Permit with conditions.
5. The applicant was represented at the hearing by Harold Lloyd, Contractor, who reviewed and discussed proposed plans with the Board.
6. The Board received documents and information prior to and during the public hearing that are on file in the office of the Board of Appeals at Town Hall, as set forth below:

Letters/E-mails from Abutters/Interested Parties

None

Letters/E-mails/Information from Applicant/Representative(s)

None

Letters/Referrals/E-mails from Town Departments

5/5/2015 Referral submitted by the Planning Department had no comment.

Plans submitted by Applicant/Applicant's Representative

5/4/2015 Applicant's contractor submitted an application, plans and fee; plans submitted include:

"Proposed Additions for Land in Falmouth" drawn by Sagamore Survey Associates, stamped and signed by

Thomas C. Pontbriand on 4/27/15 and with a Board date 'received' stamp of May 4, 2015;

Hand drawn existing and proposed structure elevations with a Board date 'received' stamp of May 4, 2015;

"Existing Floor Plan" for single-family dwelling, one sheet with a Board date 'received' stamp of May 4, 2015; and

Revised hand drawn floor plans of dwelling with proposed master bedroom addition – consisting of three drawings [pages] showing basement, main floor and loft area – all with a Board date 'received' stamp of June 15, 2015.

Information submitted by Appeals Staff

5/10/2015 Photos of homes in the general vicinity of subject property, and information of each lot that includes lot size, number of stories of each dwelling, address and estimated lot coverage – submitted by Zoning Administrator as a tool to show the Board members the average of lot coverage in neighborhood of subject property.

Hearing:

Harold Lloyd, Contractor for the applicant, was present and reviewed the existing site conditions and the proposed addition of a master bedroom that will connect the detached garage to the dwelling. The addition will be constructed between the two existing structures and is proposed with a 5' x 18' front porch. The existing lot coverage by structures is 18.2%. The proposed addition will increase the lot coverage to 23.7%, exceeding the 20% maximum by right. The existing dwelling has two bedrooms. The bedroom count will not be increased through the proposed plans as one bedroom will be a sitting room off the proposed master bedroom.

The Board discussed their concerns with the plans submitted, which included the lot coverage increase and reviewed the lot coverage calculations. Lloyd answered the questions and stated he would submit drawings of the basement and loft area.

Chairman Foreman asked for any public comment in support or opposition of the proposed additions. There was no public comment.

Member Cool made a motion to continue the hearing to June 25, 2015 in order for Mr. Lloyd to submit additional plans. Member Bielan seconded the motion. Motion carried 5 – 0.

Continuation: June 25, 2015 – Selectmen’s Meeting Room – Town Hall

Members sitting: Chairman Kenneth Foreman, Vice Chair Kimberly Bielan, Clerk Terrence Hurrie, Member Ed Van Keuren and Associate John Sutherland (was present at previous hearing and replacing absent member Mark Cool)

Harold Lloyd, Contractor for the applicant, reviewed plans of the basement and loft area as requested by the Board at previous hearing.

The Board reviewed the plans and discussed lot coverage concern with the applicant’s representative. The applicant, Peter Joyal, was present and addressed floor plan. He noted there will be two bedrooms in the dwelling post construction; one bedroom on the second level and the new master bedroom. The two bedrooms existing will change in use; one becoming a sitting room for the new master bedroom and the other at the front of the dwelling will become a TV room/family room and will have a cased opening into the living room area.

Member Bielan made a motion to close the hearing. Member Van Keuren seconded the motion. Motion carried 5 - 0.

Chairman Foreman 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 22 Meadow Lane in Falmouth contains 9,039 square feet of Residential C zoned land that is not located within any overlay district. The applicant applied under Section(s) 240-3 and 240-69 E. of the Code of Falmouth to connect the detached garage structure to the dwelling through an addition of a master bedroom. The detached garage structure has a nonconforming setback to the easterly side yard property line of 5.89' that requires a 10' setback pursuant to Section 240-68 B. of the Code of Falmouth. There are no proposed alterations to the nonconforming setback of the garage structure. The lot coverage is in compliance with Section 240-69 A. as it exists. The proposed 23' x 18'4" addition to create a master bedroom with a 5' x 18' front porch on said addition will increase the lot coverage from a conforming 18.2% to 23.7% which exceeds the 20% maximum allowed by right in a residential district. The applicant applied under Section 240-69 E. which allows the Board of Appeals to approve a special permit to exceed the 20% maximum up to 25% based on criteria of said section. The existing dwelling has two (2) bedrooms and will remain a two (2) bedroom through the addition of the proposed master bedroom. The two (2) bedrooms existing will be converted to different uses. The existing dwelling is a 1.5 story structure and the proposed addition will be one story.

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 connecting the garage and existing dwelling will not be substantially more detrimental than what currently exists. The Board further finds that the proposed addition will not increase the existing nonconforming setback to the easterly side yard property line. Furthermore, the Board further finds that the proposed addition will not create any new nonconforming setbacks on subject property.

The Board finds that the proposed addition will be an enhancement to the utilization of the dwelling by its residents. The Board further finds that the dwelling will remain a two (2) bedroom dwelling through the proposed addition. Furthermore, the Board finds that the proposed addition to the dwelling is in keeping with the characteristic of neighboring dwellings.

Section 240-69 of the Code of Falmouth – "Maximum lot coverage." – sets forth the lot coverage by structures and structure, parking and paving in different zoning districts. Subsection E. of said section allows lot coverage by structures to increase up to 25% through special permit by the Board of Appeals based on criteria regarding size and height of a proposed structure in relation to the structures in the neighborhood, any effects of shadow on adjacent properties from a proposed project; any impact of views or vistas from a public way from a proposed project; and any effect of nitrogen on a coastal embayment through a proposed project.

The Board finds that the proposed addition that will increase the lot coverage by structures above the 20% maximum by right is in keeping with the neighborhood relative to the size and height of the proposed; that the proposed will not cause shadowing on any adjacent property as it is a one-story structure located between two existing structures on subject property; there will be no impact to any view or vista of the public roadway given the location of subject property; and there will be no effect of nitrogen on any coastal embayment.

The Board finds through testimony of the applicant's representative that there will be no accessory structures located on subject property through this approval. The Board further finds that the applicant shall apply to the Board of Appeals for relief if in the future he/she is desirous of locating an accessory structure on subject property.

The Board finds that the applicant shall maintain lot coverage by structures on subject property at 23.7% or less at all times.

In addition to the above findings, the Board finds that the proposed addition connecting the existing garage and dwelling 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 addition as there will be no increase in the existing nonconforming setback and no new nonconforming setbacks will be created. The lot coverage percentage for structures will be increased and approved herein at no more than 23.7% after the Board had considered the criteria under Section 240-69 E. of the Code of Falmouth.
- B. The site is suitable for the proposed use as the property is zoned residential and has been used as a single-family dwelling.
- 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 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 sewage disposal system is in place and will be unchanged through this special permit approval.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site. G. The proposed 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 Bielan made a motion to Grant the Special Permit with conditions. Member Sutherland 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 Peter G. Joyal (herein referred to as Applicant) under Section(s) 240-3 and 240-69 E. of the Code of Falmouth to connect the detached garage structure and the dwelling by constructing an addition creating a master bedroom on subject property known as 22 Meadow Lane, Falmouth, Massachusetts. This special permit is subject to the following conditions:

1. The construction of the proposed addition connecting the existing two structures, all setbacks, height of proposed addition, lot coverage and use of the dwelling shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

- "Proposed Additions for Land in Falmouth" drawn by Sagamore Survey Associates, stamped and signed by Thomas C. Pontbriand on 4/27/15 and with a Board date 'received' stamp of May 4, 2015;

- Hand drawn existing and proposed structure elevations with a Board date 'received' stamp of May 4, 2015;

- "Existing Floor Plan" for single-family dwelling, one sheet with a Board date 'received' stamp of May 4, 2015; and

- Revised hand drawn floor plans of dwelling with proposed master bedroom addition – consisting of three drawings [pages] showing basement, main floor and loft area – all with a Board date 'received' stamp of June 15, 2015.

2. The applicant shall be required to submit to the Board of Appeals for approval, the final floor plans and elevations that will be submitted to the building department for a building permit. The final plans shall be submitted to the Board of Appeals prior to the issuance of a building permit.

3. There shall be no more than two (2) bedrooms allowed on subject property through this special permit approval.

4. There shall be a cased opening of no less than four feet (4'), with no returns, from the sitting room (previously a bedroom) to the master bedroom and from the TV/Den room (previously a bedroom) to the living room area as shown on the plans noted in Condition 1 above. It is noted that the TV/Den area has access from the new porch area and is a pass through to the living room area.

5. There shall be no addition of any accessory structures to the subject property unless application has

been made to the Board of Appeals and approved. Currently there are no accessory structures of subject property.

6. The applicant shall be responsible to insure that lot coverage by structures shall always be maintained at 23.7% or less.

7. 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.

8. 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.)

9. 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: 42-15

Applicant: PETER G. JOYAL of Falmouth, MA

Subject Property: 22 Meadow Lane, Falmouth, MA  
Map 47A, Section 16, Parcel 074, Lot 006

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.

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Kenneth Foreman, 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 42-15 / Joyal / Filed w/Town Clerk 7/2/15