

Zoning Board of Appeals Decisions Decisions for: 08-13-2015

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

APPLICATION NO: 60-15

APPLICANT(S)/OWNER: JOHN WILSON & MOLLY WILSON of West Falmouth, MA

DEED/CERTIFICATE: Book 28225 / Page 194

SUBJECT PROPERTY: 67 Hidden Village Road, West Falmouth, MA
Assessor's Map: Map 14, Section 15, Parcel 014, Lot 015

SUMMARY: Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of July 6, 2015 the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 of the Code of 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 August 13, 2015.
4. The public hearing was terminated on August 13, 2015 wherein the Board consisting of Vice Chairman Kenneth Foreman, Clerk Terrence Hurrie, Member Ed Van Keuren, Member Paul Murphy and Associate John Sutherland made a decision to Grant the Special Permit with conditions. Minutes from the hearing are on file in the Board of Appeals.
5. The applicant was present at the hearing and reviewed the proposed plans to 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

7/10/2015 Referral submitted by the Planning Department with no comment.

7/16/2015 Referral submitted by the Building Commissioner with no comment

7/24/2015 Referral submitted by the Board of Health Agent that noted to see comment on "Site Plan".
Comment is: This plan, when attached to previously issued and executed permit (2014-03947) makes this property able to increase bedrooms from two to three.

Plans submitted by Applicant/Applicant's Representative

7/6/2015 "Site Plan" prepared for Molly & John Wilson 67 Hidden Village Road, Falmouth, MA, Sheet 1 of 1 drawn by D.H. Martin Engineering, Inc., stamped, signed and dated by Gary S. Labrie, P.L.S. and David H. Martin, P.E. on June 23, 2015 with a Board date 'received' stamp of July 6, 2014

"Existing Dwelling Wilson Residence 67 Hidden Village Road West Falmouth, Massachusetts" - Drawing EX1.1 'Existing Conditions Plan' dated 4/7/2014 and Drawing EX2.1 'Existing Elevations and Section' dated 4/7/2014 as drawn by Cross Cape Architecture, P.C. with a Board date 'received' stamp of July 6, 2014

"Wilson House Addition July 2, 2015 67 Hidden Village Rd, Falmouth, MA" consisting of seven sheets with drawings of floor plans of first, second and basement levels and elevation plans - plans are not authored - all sheets have a Board date 'received' stamp of July 6, 2015

Hearing:

Molly Wilson, applicant and owner of subject property, was present and reviewed the existing site conditions and the proposed addition to first floor level, a second floor addition and a deck addition. Ms. Wilson explained that the additions will increase the bedroom count from two to three bedrooms and that the Board of Health approved the increase. She reviewed the lot coverage by structures and total lot coverage - both of which will remain well below the maximum percentage allowed by the bylaw.

The Board discussed plans with Mrs. Wilson. All concerns and questions were addressed.

Vice Chairman Foreman asked for any public comment in support or opposition of the proposed additions.

Sheryl Fiorenzi of 71 Hidden Village Road spoke in support of the proposed additions to the existing dwelling. She spoke on a concern of construction vehicles possibly blocking the narrow roadway.

The Board members spoke with the applicant on the issue of construction vehicles and Mrs. Wilson stated that at the front of her dwelling is plenty of area for parking of construction vehicles - she said area is an undeveloped part of the roadway; and that she would endeavor to work with contractors so as not to block Hidden Village Road.

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

Vice 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 67 Hidden Village Road in West Falmouth contains 22,792 square feet of Residential B zoned land that is located within the West Falmouth Harbor Coastal Pond Overlay District. The applicant applied under Section(s) 240-3 of the Code of Falmouth to construct first and second floor additions, as well as a deck addition to the pre-existing nonconforming single-family dwelling on subject property. The existing dwelling has a nonconforming setback of 7.2' to the front property line off Hidden Village Road that requires a 25' setback pursuant to Section 240-68 A. of the Code of Falmouth. The lot coverage by structures and structures, parking and paving on subject property are in compliance with Section 240-69 A. of the Code of Falmouth. The existing dwelling has two bedrooms and through the proposed plans the bedroom count will increase to three bedrooms. The plan also shows on the second floor that an 'office/den' will be created and it is noted that it has a cased opening (angled) and therefore not counted as a bedroom.

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 additions to the pre-existing nonconforming dwelling is not substantially more detrimental than what currently exists. The Board further finds that there will be no

increase in the existing nonconforming front yard setback and no new nonconforming setbacks created through the proposed plans. Furthermore, the Board finds that the lot coverage as calculated on the plan noted herein, will remain well below the maximum percentage allowed under Section 240-69 A. of the Code of Falmouth.

The Board finds that the proposed additions to the nonconforming two-bedroom, one-story dwelling will greatly enhance the utilization of the dwelling by family members. The Board further finds that the addition of one bedroom to the dwelling was reviewed and approved by the Board of Health as noted and initialed by the Health Agent on the "Site Plan" submitted to the file.

The Board finds through testimony by the applicant that every effort will be made to work with the contractors in staging construction vehicles on site and not to block Hidden Village Road during the construction activity on subject property.

In addition to the above findings, the Board finds that the proposed additions to the pre-existing nonconforming 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 increase to the footprint as the existing nonconforming setback will remain the same with no new nonconforming setbacks created; and the lot coverage by structures and structures, parking and paving will remain below the maximum percentage allowed in a residential district under Section 240-69 A. 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 such and will remain as a single-family dwelling through this special permit.
- C. There will be no impact on traffic flow and safety due to the addition of a bedroom 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 approved by the Health Agent as a three bedroom system (see referral submitted to file).
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site. However, the Applicant will have to contact the Town Water Department regarding updating of water system as there was no referral from the Water Department noting if service line is adequate.
- G. The proposed additions to the existing 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 Murphy made a motion to Grant the Special Permit with conditions. Member Van Keuren seconded the motion. Motion carried 5 – 0.

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 John and Molly Wilson (herein referred to as Applicant) under Section(s) 240-3 of the Code of Falmouth to construct a first floor addition, add a second floor and construct a new deck on the pre-existing nonconforming single-family dwelling on subject property known as 67 Hidden Village Road, West Falmouth, Massachusetts. This special permit is subject to the following conditions:

1. The construction of additions, bedroom count, setbacks, height of proposed second floor, 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:

- "Site Plan" prepared for Molly & John Wilson 67 Hidden Village Road, Falmouth, MA, Sheet 1 of 1 drawn by D.H. Martin Engineering, Inc., stamped, signed and dated by Gary S. Labrie, P.L.S. and David H. Martin, P.E. on June 23, 2015 with a Board date 'received' stamp of July 6, 2014

- "Existing Dwelling Wilson Residence 67 Hidden Village Road West Falmouth, Massachusetts" - Drawing EX1.1 'Existing Conditions Plan' dated 4/7/2014 and Drawing EX2.1 'Existing Elevations and Section' dated 4/7/2014 as drawn by Cross Cape Architecture, P.C. with a Board date 'received' stamp of July 6, 2014

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2. There shall be no more than three (3) bedrooms allowed on subject property.

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. The Applicant shall meet the requirements of the DPW Water Division.

5. 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.)

6. 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: 60-15

Applicant: JOHN and MOLLY WILSON of West Falmouth, MA

Subject Property: 67 Hidden Village Road, West Falmouth, MA
Map 14, Section 15, Parcel 014, Lot 015

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.

Terrence J. Hurrie, Clerk, Board of Appeals

_____ 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 60-15 Wilson / Filed w/ Town Clerk 8/20/15