

## Zoning Board of Appeals Decisions Decisions for: 08-20-2015

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 66-15

APPLICANT(S)/OWNER: FREDERIC M. RAMSEY and MARY JANE RAMSEY  
Of North Falmouth, MA

DEED/CERTIFICATE: Certificate 162026 – Lot 134, Plan 6569-Q (Sheet 5)

SUBJECT PROPERTY: 211 Alder Lane, North Falmouth, MA  
Assessor's Map: Map 13, Section 02, Parcel 002A, Lot 134

SUMMARY: Granted Special Permit with Conditions

PROCEDURAL HISTORY

1. Under a date of July 17, 2015, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 and 240-23 G. (1) of the Code of Falmouth to construct an addition to the existing garage and create a master bedroom above new addition to the pre-existing nonconforming single-family dwelling known as 211 Alder Lane, North 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 20, 2015.
4. The public hearing was terminated on August 20, 2015 wherein the Board consisting of Chairman Kimberly Bielan, 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 represented at the hearing by Mark Bogosian of Longfellow Design Build, 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)

7/17/2015 Application, plans and fee were submitted to the Board of Appeals with a Town Clerk stamp of July 17, 2015 at 8:25 AM

Letters/Referrals/E-mails from Town Departments

7/21/2015 A referral was submitted by the Planning Department with no comment

7/22/2015 A referral was submitted by the Building Commissioner with no comment

7/23/2015 A referral was submitted by the Marine Environmental Service Department with no comment

7/28/2015 A referral was submitted by the Falmouth Fire and Rescue Department with a comment: Meet existing building codes,

8/12/2015 A referral was submitted by the Board of Health Agent with the comment: The location of the existing septic system shown on the file plan appears to not meet the minimum setback to the proposed addition foundation. In addition, the septic component is not identified as to type. Furthermore, the location is not accurate. More detail would be necessary in order for the Health Department to sign off on this project.

8/18/2015 A referral was submitted by the Engineering Department with the comment: .... Alder Lane is a private right of way in this area. Any connections or alterations to public utilities would require permission from the appropriate Town Department. The project must not direct any stormwater runoff to public property, abutters, or right of ways.

#### Plans submitted by Applicant/Applicant's Representative

7/21/2015 "Certified Plot Plan" prepared for Frederic M. & Mary Jane Ramsey 211 Alder Lane North Falmouth, MA02556 – drawn by Cape & Islands Engineering, stamped by Christopher Costa, P.L.S. on 7/20/2015 and with a Board date 'received' stamp of July 21, 2015

7/17/2015 "Ramsey Residence 211 Alder Lane, N. Falmouth MA 02556" Architectural plans drawn by Daniel H Reynolds Design Collaborative LLC consisting of Drawings: EX100 'Existing Basement Floor Plan', EX110 'Existing First Floor Plan', EX120 'Existing Second Floor Plan', EX130 'Existing Roof Plan', A100 'Existing/Demolition Basement Floor Plan', A101 'Existing/Demolition Basement RCP', A102 'Proposed/New Basement Floor Plan', A103 'Proposed New Basement RCP', A110 'Existing/Demolition First Floor Plan', A111 'Existing/Demolition First Floor RCP', A120 'Existing Demolition Roof Plan', A122 'Proposed New Roof Plan', A801 'Door and Wind Schedule' – all plans dated 7/14/2015 with a Board date 'received' stamp of July 17, 2015.

8/19/2015 "Ramsey Residence 211 Alder Lane, N. Falmouth MA 02556" Architectural plans drawn by Daniel H Reynolds Design Collaborative LLC consisting of Drawings: A112 'Proposed New First Floor Plan' dated 8/9/2015, A113 'Proposed New First Floor RCP' dated 8/9/2015, A201 'Exterior Elevations' dated 8/9/2015 and A202 'Exterior Elevations' dated 8/9/2015 – all with a Board date 'received' stamp of August 19, 2015.

#### Hearing:

Mark Bogosian with Longfellow Design Build was present on behalf of the applicant(s) who were also present, and reviewed the existing site conditions and the proposed addition to the pre-existing nonconforming single-family dwelling. The existing nonconformity on the property is the lot coverage by structures at 21.1% which exceeds the 20% maximum allowed in this residential district. The applicants are requesting to add a third bay to the existing two bay attached garage structure that will increase the lot coverage to 23.0%. The second level above the new garage will create additional space to the existing guest room allowing them to create a new master bedroom and bath with laundry facilities. Mr. Bogosian addressed the Board of Health referral stating the he discussed this with the applicant and they will work with the Board of Health to come into compliance with the septic components. He explained that the existing dwelling has four bedrooms and there will be no increase to the number of bedrooms through this special permit request. He further stated that the height of the proposed addition will be lower than the existing dwelling height and will be located at the rear of the dwelling and will not be seen from the roadway. He reviewed the surrounding properties and the lot coverage noting that the homes in the area are 1.5 story and 2 story structures and that the proposed project will be in keeping with the character of the dwellings in the neighborhood.

The Board discussed the plans and stated concerns regarding the floor plan showing access to the proposed master bedroom and the shed that is located at the southwest corner of the property encroaching onto association common land. Mr. Bogosian stated that the applicant is amenable to increasing the width of the doorway and making it a four foot cased opening. He further stated that moving the shed will not be easy and prefer it remain as located.

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

There was no public comment.

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

Chairman Bielan 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 211 Alder Lane in North Falmouth contains 15,121 square feet of Residential B zoned land that is located within the Wild Harbor River Coastal Pond Overlay District. The applicant applied under Section(s) 240-3 C of the Code of Falmouth as the lot coverage is nonconforming at 21.1%; and under Section 240-23 G. (1) of the Code of Falmouth to allow the addition of a third bay adjacent to the existing two bay garage. The area above the garage space will be added into existing area which is listed as 'guest room' on plans and be converted to a large master bedroom with laundry room, two walk-in closets and a full bathroom. There will be no increase in the number of bedrooms on subject property. There are no nonconforming setbacks to any property lines on subject property – all conform to Sections 240-68 A. and B. of the Code of Falmouth. The lot coverage by structures current exceeds the 20% maximum by right under Section 240-69 A. of the Code of Falmouth. The current lot coverage by structures is 21.1%, which is proposed to be increased through the garage bay addition to 23.0%.

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 garage bay addition to west side of the existing attached garage does not appear to be substantially more detrimental than what currently exists. The Board finds that the proposed garage bay will not create a nonconforming setback. Furthermore, the Board finds that the lot coverage by structures existing is nonconforming at 21.1% thus the applicant applied under Section 240-3; and it is the Board's discretion to allow the lot coverage by structures to increase to the proposed 23.0%.

Section 240-23 G. (1) of the Code of Falmouth requires a special permit to allow garage space for more than two cars if the lot is less than 30,000 square feet in size or if the footprint of the garage is more than 900 square feet or 50% of the footprint of the principal structure – whichever is less.

The Board finds that the proposed garage bay addition to the existing two-car attached garage on subject property will create space for more than two cars and is therefore properly before the Board under Section 240-23 G. (1) of the Code of Falmouth. The Board finds that the subject property has less than 30,000 square feet of land as set forth in Section 240-23 G. (1) (a) of the Code of Falmouth and is therefore properly before the Board. The Board further finds according to the plan submitted (architectural plan), the existing garage space is approximately 684 square feet in size and the proposed additional bay will be approximately 156 square feet in size for a total of 840 square feet – below the 900 square feet noted in 240-23 G. (1)(b) of the Code of Falmouth.

The Board finds through testimony of the applicant's representative and plans submitted that there are four (4) bedrooms existing within the subject dwelling and this count will not be increased through this special permit approval. The Board finds that the Board of Health submitted a referral to the file stating concerns regarding the proximity of septic components relative to the proposed addition. The applicants' representative stated that he has discussed the issue with the Board of Health and that the applicants will work with the Board of Health to insure that the septic will be in compliance with Title 5 regulations.

The Board finds through testimony by the applicants' representative that there is no intention to locate any additional accessory structures on subject property. The Board further finds that the existing shed at the northwesterly corner of subject property encroaches the development's association common area.

The Board finds that the increase of lot coverage by structures from 21.1% to 23.0% is in keeping with the character of the neighborhood. The Board further finds that the proposed addition to the dwelling structure, increasing the lot coverage, will be at the rear of the existing dwelling structure, not seen from the roadway and therefore is not an impact on the bulk of the structure.

The Board finds through testimony by the applicants' representative that the applicant is amenable to a four foot (4') cased opening from the family room into the newly created hallway off the proposed master bedroom as shown on Drawing A112 ['Proposed New First Floor Plan'], and that said cased opening will remain so as not to be considered separate living quarters.

In addition to the above findings, the Board finds that the proposed garage bay addition with additional living space above 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 garage bay addition as there will be no nonconforming setbacks created; and the increase in lot coverage by structures up to 25% is allowed by special permit 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 is, and will remain, 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 minimally changed due to the addition of the garage bay with second floor being constructed at the side of the garage facing the back yard and there does not appear to be any impact on the neighborhood's visual character as there are several houses in the surrounding area that have been improved such as this; 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, as stated herein, the applicant will work with the Board of Health regarding the addition and proximity to the septic components in order to comply with Title V regulations.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site.
- G. The proposed garage bay addition with living space above 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 Frederic M. & Mary Jane Ramsey (herein referred to as Applicant) under Section(s) 240-3 and 240-23 G. (1) of the Code of Falmouth to construct a third bay to the existing attached garage structure with additional living space above to convert existing bedroom into a master bedroom and bathroom within the single-family dwelling located at 211 Alder Lane, North Falmouth, Massachusetts. This special permit is subject to the following conditions:

1. The construction of the additional garage bay with living space above, all setbacks, lot coverage, height of proposed addition and use of dwelling structure 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 Frederic M. & Mary Jane Ramsey 211 Alder Lane North Falmouth, MA02556 – drawn by Cape & Islands Engineering, stamped by Christopher Costa, P.L.S. on 7/20/2015 and with a Board date 'received' stamp of July 21, 2015

"Ramsey Residence 211 Alder Lane, N. Falmouth MA 02556" Architectural plans drawn by Daniel H Reynolds Design Collaborative LLC consisting of Drawings: EX100 'Existing Basement Floor Plan', EX110 'Existing First Floor Plan', EX120 'Existing Second Floor Plan', EX130 'Existing Roof Plan', A100

'Existing/Demolition Basement Floor Plan', A101 'Existing/Demolition Basement RCP', A102 'Proposed/New Basement Floor Plan', A103 'Proposed New Basement RCP', A110 'Existing/Demolition First Floor Plan', A111 'Existing/Demolition First Floor RCP', A120 'Existing Demolition Roof Plan', A122 'Proposed New Roof Plan', A801 'Door and Wind Schedule' – all plans dated 7/14/2015 with a Board date 'received' stamp of July 17, 2015.

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2. The applicant shall submit a revised "Proposed New First Floor Plan' – Drawing A112, showing the four foot (4') cased opening discussed in the hearing by the Board and agreed to by the applicants' representative. The revised drawing shall be submitted to the Board of Appeals for approval prior to any issuance of a building permit.
3. The proposed new master bedroom and bathroom discussed herein, shall not become separate livings quarters and shall not be rented separately from the single-family dwelling on subject property.
4. The applicant will work with the Board of Health to meet Title 5 regulations regarding the location of septic components in relation to the proposed addition. The applicant will submit to the Board of Appeals, prior to issuance of a building permit, verification of the Board of Health's approval for the proposed plans.
5. There shall be no more than four (4) bedrooms allowed on subject property.
6. There shall be no additional accessory structures allowed on subject property without further review and approval by the Board of Appeals.
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. The Applicant shall meet the requirements of the DPW Water Division.
9. 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.)
10. 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: 66-15

Applicant: FREDERIC M. RAMSEY & MARY JANE RAMSEY  
of North Falmouth, MA

Subject Property: 211 Alder Lane, North Falmouth, Massachusetts  
Map 13, Section 02, Parcel 002A, Lot 134

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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Terrence J. Hurrie, Clerk, Board of Appeals

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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 66-15 Ramsey / Filed w/Town Clerk 9/1/15