

## Zoning Board of Appeals Decisions Decisions for: 02-05-2015

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

APPLICATION NO: 103-14

APPLICANT/OWNER: WILFRED A. DROLET and IRENE C. DROLET  
of East Falmouth, MA

DEED/CERTIFICATE: Book 24083 / Page 83

SUBJECT PROPERTY: 355 Seacoast Shores Blvd., East Falmouth, MA  
Assessor's Map: Map 41, Section 06, Parcel 000, Lot 137

SUMMARY: Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of December 22, 2014 the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-69 E. of the Code of Falmouth to construct a workshop addition at the rear of the attached garage and add a covered porch at the front of the existing single-family dwelling located at 355 Seacoast Shores Boulevard, East 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 February 5, 2015 at 6:30 PM in the Town Hall Selectmen's Meeting Room.
4. The public hearing was terminated on February 5, 2015 with the Board making a decision to grant the special permit with conditions. Board members sitting: Vice Chairman Kimberly Bielan, Clerk Terrence Hurrie, Associate Mark Cool (sitting as voting member) and Associate John Sutherland (sitting as voting member).
5. The Board received documents and exhibits prior to and during the public hearing which 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

2/4/2015 E-mail letter from Gary Grabauskas of 29 Knollwood Drive, East Falmouth stating he has had conversation with applicant and has no issue with proposed workshop

2/5/2015 E-mail letter from Antoniou Family Trustees, 3 members of 30 Fisher Road (abutters) stating concerns with possible commercial use of a workshop and lot coverage increase

Letters/E-mails/Information submitted by Applicant/Representative(s)

12/22/2014 Application with plans, check, authorization and information submitted to the Board of Appeals for hearing date by Thomas J. Bunker, PLS with BSS Design, Inc. as representative of the applicant.

1/22/2015 Transmittal letter from BSS Design, Inc. with revised plans attached (noted below) and Lot Coverage calculation charts – one sorted by lot coverage and one sorted by building area

Letters/Referrals/E-mails from Town Departments

12/23/2014 E-mail from Board of Appeals staff requesting front elevation measurement from applicant's representative

12/24/2014 Referral submitted from the Planning Department with no comment

2/2/2015 Referral submitted from Board of Health Agent regarding 'reserve area'. The referral was updated by Health Agent Carignan on 2/2/2015 with no objection.

2/3/2015 E-mail from Board of Appeals staff to BSS Design regarding heat in workshop with response on same date from BSS Design

Plans submitted from Applicant/Representative

12/23/2014 Architectural Plans drawn by JB Home Designs consisting of Pages 2 through 4 showing: Page 2 of 4 'Existing Roof and Floor Framing Plan, Existing Basement and Proposed Foundation Plan dated 11/8/14, Page 3 of 4 'Elevations' dated 11/8/14 and Page 4 of 4 'Studs and Headers' dated 11/8/14 - all with a Board date 'received' stamp of December 23, 2014

2/3/2014 "Site Plan of Proposed Addition" prepared for Will and Irene Drolet 355 Seacoast Shores Boulevard East Falmouth, Massachusetts - drawn by BSS Design, Inc. dated November 7, 2014 with a final revision date of February 3, 2015 - plan is signed by Thomas J. Bunker, PLS and has a Board date 'received' stamp of February 3, 2015

1/22/2014 Architectural Plans drawn by JB Home Designs consisting of Page 1 of 4 only showing 'Elevations' and 'Proposed Floor Plan' dated 11/8/14 with a Board date 'received' stamp of January 22, 2015

Hearing:

Jeff Ryther with BSS Design, Inc. was present on behalf of the applicant and reviewed the existing site conditions and the proposed addition of workshop and covered porch.

The Board discussed plans with Mr. Ryther and Dennis Cenzalli, applicant's contractor. All concerns and questions were addressed.

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

Member Cool made a motion to close the hearing. Member Sutherland seconded the motion. Motion carried 4 - 0.

Vice 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 355 Seacoast Shores Boulevard in East Falmouth contains 11,412 square feet of Residential C zoned land that is located within the Eel Pond Coastal Pond Overlay District. There has been no previous Special Permit or Variance on subject property. The applicant applied under Section(s) 240-69 E. of the Code of Falmouth to allow lot coverage by structures to exceed the 20% maximum allowed by right in a residential district through the construction of a workshop addition to the rear of attached garage and the addition of a covered porch on the front façade of the dwelling. The subject property is located on a corner with two front yards - one off Knollwood Drive and one off Seacoast Shores Boulevard - both have conforming setbacks pursuant to Section 240-68 A. of the Code of Falmouth [25' setbacks from front property line off a way]; the side yard setbacks are also conforming to the 10' setback required in Section 240-68 B. of the Code of Falmouth. The applicant is proposing a workshop that will not have plumbing or drywall, but will have heat, electrical and be insulated. The proposed covered front porch will give protection from the weather from egress/access to and from the garage to the front entry way of the dwelling; it will also enhance the front façade of the dwelling.

Section 240-69 of the Code of Falmouth – “Maximum lot coverages.” - Sub-section E. allows the Board of Appeals to approve a special permit to increase lot coverage by structures in a residential zoned district after the Board has taken under consideration the size and height of the proposed structure in relation to the size and height of structures in the neighborhood, if there is any shadowing on adjacent properties from proposed structure, if there is any impact on a view or vista from the roadway or if there is any effect on a coastal embayment.

The Board finds that the proposed workshop addition to the rear of the attached garage structure and the proposed covered front porch do not adversely impact the neighborhood as considered under Section 240-69 E. of the Code of Falmouth. The Board further finds that the addition of the front covered porch is in keeping with the neighborhood and will enhance the front façade of the dwelling. Furthermore, the Board finds that the proposed workshop is not visible from the roadway and will not be habitable space.

The Board finds through testimony by the applicant’s representative that there is no intent to have plumbing installed in the workshop and that it will remain a workshop without drywall. The Board further finds through testimony of the applicant’s representative that there is no intent to create a bedroom or sleeping accommodation within the workshop or garage area discussed herein. Furthermore, the Board finds through the plans submitted and reviewed herein that there is no access to the dwelling from either the workshop or the garage the workshop is attached to – only entrance to the dwelling is through the proposed covered front porch.

The Board finds through testimony of the applicant’s representative that there is no intent to add any accessory structures to the subject property [currently no accessory structures on property according to plans submitted and approved herein].

The Board finds through testimony of the applicant’s representative that the workshop is for personal use and not that of a commercial use. The Board further finds through testimony of the applicant’s representative that the applicant is amenable to a condition that the workshop not be rented separately from the principal dwelling use. Furthermore, the Board finds that the proposed workshop and covered front porch will not increase the number of bedrooms on subject property.

The Board finds that the proposed change to the pre-existing nonconforming dwelling is not substantially more detrimental than what currently exists.

In addition to the above findings, the Board finds that the proposed addition of a workshop at the rear of the newly constructed attached garage and the addition of a covered front porch 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 workshop and covered front porch as all setbacks on subject property are conforming to Section 240-68 A. and B. of the Code of Falmouth; and that the increase in the lot coverage to 23.15% was found by the Board to not have any adverse effect on the neighborhood 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 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.
- 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 as there are several houses in the surrounding area that are of similar design; and there will be no impact on any view or vista from the roadway or abutting properties.
- E. The sewage disposal system is in place and not affected through this special permit approval – see Board of Health referral submitted to the file.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site.
- G. The proposed workshop and covered front porch additions 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 Hurrie 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 4 – 0 to Grant the Special Permit to Wilfred A. and Irene C. Drolet (herein referred to as applicant) under Section(s) 240-69-E. of the Code of Falmouth to construct a workshop addition to the rear of attached garage and the addition of a covered front porch to the existing single-family dwelling on subject property known as 355 Seacoast Shores Boulevard, East Falmouth, Massachusetts. This special permit is subject to the following conditions:

1. The construction of the workshop and the covered front porch, all setbacks, height of structure, lot coverage and use of additions shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

- Architectural Plans drawn by JB Home Designs consisting of Pages 2 through 4 showing: Page 2 of 4 'Existing Roof and Floor Framing Plan, Existing Basement and Proposed Foundation Plan dated 11/8/14, Page 3 of 4 'Elevations' dated 11/8/14 and Page 4 of 4 ' Studs and Headers' dated 11/8/14 – all with a Board date 'received' stamp of December 23, 2014; and

- "Site Plan of Proposed Addition" prepared for Will and Irene Drolet 355 Seacoast Shores Boulevard East Falmouth, Massachusetts – drawn by BSS Design, Inc. dated November 7, 2014 with a final revision date of February 3, 2015 – plan is signed by Thomas J. Bunker, PLS and has a Board date 'received' stamp of February 3, 2015

2. The workshop shall not be rented out separately from the principal dwelling on subject property.

3. The workshop shall not be used for commercial purposes.

4. There shall be no plumbing installed within the workshop area.

5. There shall be no accessory structures – detached or attached – located on subject property without further review by the Board of Appeals.

6. There shall be no bedroom or sleeping accommodations created within the workshop or garage area on subject property.

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: 103-14

Applicant: WILFRED A. DROLET and IRENE C. DROLET  
of East Falmouth, MA

Subject Property: 355 Seacoast Shores Boulevard, East Falmouth, MA

Map 41, Section 06, Parcel 000, Lot 137

Action: The Board of Appeals, by the signature below, being present, certifies the vote of the Board as follows for the above referenced:

Vote: 4 – 0 to Grant the Special Permit the Special Permit as represented to the Board, based on the Findings stated herein and with the above stated Conditions.

\_\_\_\_\_  
Kimberly Bielan, Vice 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:**

#103-14 Drolet - 355 Seacoast Shores Blvd. SP