

Zoning Board of Appeals Decisions Decisions for: 01-08-2015

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DECISION OF FALMOUTH ZONING BOARD OF APPEALS

SPECIAL PERMIT NO: 58-14

APPELLANT: 115 COUNTY ROAD REALTY TRUST

DEED/CERTIFICATE: Book 5367 / Page 26

SUBJECT PROPERTY: Lot 3, Lower Road, East Falmouth, MA
Map 27, Section 03, Parcel 004, Lot 003

Under a date of June 27, 2014, the Appellant submitted an appeal of the determination of the Building Commissioner pursuant to MGL Ch. 40A, Section(s) 8 and 15 and Section 240-202 of the Code of Falmouth, that before a building permit can be issued for construction, a determination of access from the Planning Board is required for a 45,053 square foot parcel known as Lot 3, Lower Road, East Falmouth, Massachusetts.

A public hearing was opened on September 4, 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.

The file for Appeal #58-14 includes waivers as follows:

- a waiver signed by the Appellant's representative to extend the 65 day hearing process – filed with the Town Clerk on July 11, 2014;
- a waiver signed by the Appellant's representative to extend the one-hundred (100) day hearing process for an appeal – filed with the Town Clerk on September 3, 2014; and
- a waiver signed by the Appellant's representative to extend a second time the one-hundred (100) day hearing process for an appeal – filed with the Town Clerk on December 2, 2014.

September 4, 2014: Clerk Bielan read the Notice of Public Hearing into the record.

Clerk Bielan read into the record a request from Attorney Ament requesting a two-month continuation of the hearing in order to meet with the Planning Board.

The Board voted 5 – 0 to continue the hearing to December 4, 2014.

December 4, 2014: Chairman Haddad noted that there is a request in the file by Attorney Ament to continue the hearing to January 8, 2015 as application is pending before the Planning Board.

Board voted 5 – 0 to continue the hearing to January 8, 2015.

January 8, 2015:

Board members sitting are Chairman David Haddad, Vice Chairman Kenneth Foreman, Clerk Kimberly Bielan, Member Terrence Hurrie and Associate Member Mark Cool (sitting as voting member)

Clerk Bielan read into the file a request from Attorney Ament on behalf of the appellant requesting to withdraw the appeal before the Board of Appeals without prejudice.

Member Bielan made a motion to grant the withdrawal without prejudice. Member Foreman 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 Appellant to Withdraw the Appeal Without Prejudice regarding the Building Commissioner's determination that a building permit cannot be issued for construction until access has been determined by the Planning Board for Lot 3 on Lower Road in East Falmouth, Massachusetts.

Decision of the Falmouth Zoning Board of Appeals Continued:

Appeal Number: 58-14

Appellant: 115 COUNTY ROAD REALTY TRUST of East Falmouth, MA

Subject Property: Lot 3, Lower Road, East Falmouth, Massachusetts
Map 27, Section 03, Parcel 004, Lot 003

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 Appellant to Withdraw the Appeal from the Board of Appeals Without Prejudice.

Kimberly Bielan, 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:

58-14 / 115 County Rd Realty Trust - Lot 3, Lower Rd / Appeal of BC determination posted 1/21/15 mm