

Zoning Board of Appeals Decisions Decisions for: 05-28-2015

[Close Window](#)

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

APPLICATION NO: 41-15

APPLICANT(S)/OWNER: RONALD J. ECKEL, TRUSTEE of Belmont, MA

DEED/CERTIFICATE: Book 24625 / Page 249

SUBJECT PROPERTY: 443 Shorewood Drive, East Falmouth, MA
Assessor's Map: Map 40, Section 02A, Parcel 000, Lot 005

SUMMARY: Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of April 29, 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 to construct a sunroom over a portion of existing deck and add two small decks to existing deck at rear of dwelling on a pre-existing nonconforming single-family dwelling located at 443 Shorewood Drive, 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 May 28, 2015.
4. The public hearing was terminated on May 28, 2015 wherein the Board consisting of Chairman Kenneth Foreman, Clerk Terrence Hurrie, Member Ed Van Keuren and Associates Mark Cool and John Sutherland (sitting as voting members) made a decision to Grant the Special Permit with conditions.
5. The applicant was represented at the hearing by Dana Pickup, 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

5/28/2015 Applicant submitted seven (7) signed statements (form letter) in support of the proposed application (see file).

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

5/26/2015 E-mail from applicant's representative in response to e-mail sent by Zoning Administrator on 5/20/2015 regarding floor plans

Letters/Referrals/E-mails from Town Departments

4/30/2015 Referral submitted by the Assistant Town Planner with no comment.

5/20/2015 E-mail from Zoning Administrator to applicant's representative regarding floor plans required.

Plans submitted by Applicant/Applicant's Representative

4/29/2015 "Certified Plot Plan" for Eckel Residence at 443 Shorewood Dr., Falmouth, MA dated April 27, 2015 drawn by Eastbound Land Surveying, Inc. stamped and signed by Robb Sykes, PLS with a Board date 'received' stamp of April 29, 2015;

Computer generated floor plan of main floor, noted dated and with a Board date 'received' stamp of May 26, 2015;

"Aluminum Studio Enclosure Structural Framing Up to 120 MPH – Exposure B" plan showing front and side view of sunroom with a Board date 'received' stamp of April 29, 2015;

"10'-0 x 12'-0" Studio Enclosure General Layout" for Eckel 443 Shorewood Dr., East Falmouth, MA dated 1/29/15 ; and

Hand drawn framing and cross section plan – two pages, drawn by Care Free Homes, Inc., not dated, with a Board date 'received' stamp of April 29, 2015.

Hearing:

Dana Pickup, Contractor was present on behalf of the applicant and reviewed the existing site conditions and the proposed addition of a sunroom over existing deck area and additions to said existing deck to maintain same size deck prior to addition of sunroom. Mr. Pickup explained that the existing lot coverage by structures is nonconforming at 22.76% and with the addition of more deck area to make up for area taken by sunroom, the lot coverage by structures will increase to 24.23%.

The Board discussed proposed plans with Mr. Pickup and asked if heat was to be installed in the sunroom and proposed height of structure. All concerns and questions were addressed.

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 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 443 Shorewood Drive in East Falmouth contains 10,000 square feet of Residential B zoned land that is located within the Great Pond Coastal Pond Overlay District. The applicant applied under Section(s) 240-3 of the Code of Falmouth to construct a sunroom over a portion of the existing deck and add two small deck addition to existing deck located at the rear of the dwelling on subject property. The dwelling structure is nonconforming due to the lot coverage by structures of 22.76% that exceeds the 20% maximum allowed by right in a residential zoned district under Section 240-69 A. of the Code of Falmouth. The setbacks to front, rear and side property lines are in compliance with Section 240-68 A. and B. of the Code of Falmouth. The applicant is requesting to construct a 10' x 12' sunroom addition to the rear of the dwelling over an existing deck and then add the same amount of deck space to the northwest side of existing deck to make up for the lost deck space due to construction of sunroom; and add a smaller deck addition to the southeast portion of existing deck. The deck additions will increase lot coverage by structures from 22.76% to 24.23%.

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 sunroom addition over existing deck and the deck additions are not substantially more detrimental than what currently exists. The Board further finds that the deck addition to the northwest portion of existing deck will be over existing patio hardscape. Furthermore, the Board

finds that the proposed sunroom and deck additions will not be visible from the roadway and therefore have no impact on the existing character of the dwelling.

The Board finds that the height of the proposed sunroom will not be higher than the existing roofline of the dwelling. The Board further finds by testimony of the applicant's representative that there will be no heat installed within the proposed sunroom.

In addition to the above findings, the Board finds that the proposed sunroom and deck additions 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 deck additions and construction of a sunroom over existing deck as there will be no nonconforming setbacks created and the increase to lot coverage is below the 25% 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 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 unchanged as the construction of the sunroom and deck additions will be added to the existing deck at the rear of the dwelling and not visible from the roadway so there will be no 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 signed off as a four bedroom system by the Board of Health.
- 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.
- G. The proposed dwelling reconstruction 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 Van Keuren 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 Ronald J. Eckel, Trustee (herein referred to as Applicant) under Section(s) 240-3 of the Code of Falmouth to construct a sunroom over a portion of the existing deck and add two (2) deck additions to existing deck at rear of dwelling on a pre-existing nonconforming property known as 443 Shorewood Drive, East Falmouth, MA. This special permit is subject to the following conditions:

1. The construction of the sunroom and two deck additions, all setbacks, lot coverage, height of sunroom and use of sunroom shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
 - "Certified Plot Plan" for Eckel Residence at 443 Shorewood Dr., Falmouth, MA dated April 27, 2015 drawn by Eastbound Land Surveying, Inc. stamped and signed by Robb Sykes, PLS with a Board date 'received' stamp of April 29, 2015;
 - Computer generated floor plan of main floor, noted dated and with a Board date 'received' stamp of May 26, 2015;
 - "Aluminum Studio Enclosure Structural Framing Up to 120 MPH – Exposure B" plan showing front and side view of sunroom with a Board date 'received' stamp of April 29, 2015;
 - "10'-0 x 12'-0" Studio Enclosure General Layout" for Eckel 443 Shorewood Dr., East Falmouth, MA dated 1/29/15 ; and

- Hand drawn framing and cross section plan – two pages, drawn by Care Free Homes, Inc., not dated, with a Board date 'received' stamp of April 29, 2015.

2. There shall be no heat installed within the sunroom approved herein.

3. There shall be no accessory structures added to subject property without prior approval of the Board of Appeals due to the lot coverage proposed herein being close to the maximum 25% allowed in Section 240-69 E. of the Code of Falmouth.

4. 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.

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: 41-15

Applicant: RONALD J. ECKEL, TRUSTEE of Belmont, MA

Subject Property: 443 Shorewood Drive, East Falmouth, MA
Map 40, Section 02A, Parcel 000, Lot 005

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.

Kenneth Foreman, Board 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:

#41-15 SP / Eckel / Filed w/T.C. 6/9/2015

