

Zoning Board of Appeals Decisions Decisions for: 06-30-2016

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 059-16

APPLICANT/OWNER(S): KENNETH R. WEBB and JULIANN M. WEBB of Holliston, MA

SUBJECT PROPERTY: 60 Rivers End Road, Teaticket, Massachusetts
Assessor's Map: Map 34, Section 06, Parcel 007, Lot 016

DEED/CERTIFICATE: Book 12637 / Page 117

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of May 17, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. of the Code of Falmouth to construct a below-grade garage with a 1.5 story addition above with renovations to the interior of the pre-existing nonconforming single-family dwelling on subject property known as 60 Rivers End Road, Teaticket, 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 June 30, 2016.
4. The public hearing was terminated on June 30, 2016, wherein the Board consisting of Chairman Kimberly Bielan, Vice Chairman Kenneth Foreman, Clerk Terrence Hurrie, Member Ed Van Keuren and Member Paul Murphy 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 Thomas J. Bunker, PLS with BSS Design, Inc. 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)

6/24/2016 E-mail from Zoning Administrator to Representative Bunker in response to his letter of June 23, 2016 regarding 'Notice' of subject application.

Letters/Referrals/E-mails from Town Departments

5/18/2016 Referral was submitted to the file from the Planning Department with no comment.

5/19/2016 Referral was submitted to the file from Falmouth Fire Rescue Department with no comment.

5/25/2016 Referral was submitted to the file from the Interim Building Commissioner that states: Shall comply with all applicable provisions of 780 CMR – State Building Code, including Flood Resistant Construction, if applicable.

6/7/2016 Referral was submitted to the file from Conservation Commission with the comment: Order of Conditions approved under DEP 25-4195. Courtney (Concom staff) to send OOC scanned copy to Ashley (ZBA staff).

6/14/2016 Referral was submitted to the file from the Engineering Department with the following comment: This application was reviewed only for impacts to public right of ways and public utilities. Rivers End Road 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.

6/01/2016 Conservation Commission submitted a copy of the 'Order of Conditions' they approved on 4/20/2016.

Plans submitted by Applicant/Applicant's Representative

"Plot Plan – Existing House" prepared for Kenneth and Juliann Webb 60 Rivers End Road East Falmouth, Massachusetts as drawn by BSS Design, Inc. - Drawing 1 of 3 '1 of 3 Existing Conditions' dated March 14, 2016 with a Board date 'received' stamp of June 23, 2016;

"Plot Plan – Proposed Addition" prepared for Kenneth and Juliann Webb 60 Rivers End Road East Falmouth, Massachusetts as drawn by BSS Design, Inc. - Drawing 2 of 3 '2 of 3 Proposed Site Plan' dated March 14, 2016 with a final revision date of June 21, 2016 and a Board date 'received' stamp of June 23, 2016;

"Plot Plan – Proposed Addition" prepared for Kenneth and Juliann Webb 60 Rivers End Road East Falmouth, Massachusetts as drawn by BSS Design, Inc. - Drawing 3 of 3 '3 of 3 Details' dated March 14, 2016 with a Board date 'received' stamp of June 23, 2016;

"Webb Residence" architectural plans drawn by Beatrice A. Bunker Architecture – ZBA filing 1 'Basement & First Fl. Plans' not dated but with a Board date 'received' stamp of May 17, 2016, ZBA Filing 2 'Second & Third Floor Plans'; not dated – with a Board date 'received' stamp of May 17, 2016 and ZBA Filing 3 'Elevations', not dated – with a Board date 'received' stamp of May 17, 2016; and

"Webb Residence" architectural plans – Existing dwelling – drawn by Beatrice A. Bunker Architecture consisting of Drawings EX1 through EX8 all dated November 5, 2015 – showing existing floor plans and elevations – all with a Board date 'received' stamp of May 17, 2016.

Hearing:

Thomas J. Bunker, PLS reviewed the existing site and structure conditions and reviewed the proposed addition of a garage with living space above. He stated that the only nonconformity is that the structure is 47' from the 3' contour line off Great Pond waters which requires a 50' setback according to Town Code; the proposed addition is in compliance with all setbacks. He stated that the existing garage will be maintained as the existing unfinished utility room, but that an area where a garage bay was would be turned into a ¾ bathroom and a laundry room. The space created above the garage on first floor will be part of the renovation of the existing interior and will become a kitchen and dining room – allowing the living room to be enlarged and a new foyer created. The newly created space on the second floor above the new garage space will be for a bedroom that was relocated on existing second floor to allow for the increase of a bedroom being made into a master suite. The Bonus room on the third floor is existing and will remain the same. The only other change is the addition of a covered porch at the front entry. There is no increase in the number of bedrooms. Mr. Bunker did review the two proposed drywells off the southern façade of the proposed addition to maintain stormwater on subject property.

Project Architect Beatrice A. Bunker was present and reviewed proposed plan for the additions to the dwelling.

The Board discussed plans with Thomas J. Bunker, PLS and Beatrice A. Bunker, Architect. All concerns and questions were addressed.

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

Member Foreman made a motion to close the hearing. Member Van Keuren 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 60 Rivers End Road in Teaticket contains 17,100 square feet (14,700 is upland) Residential C zoned land that is located within the Great Pond Coastal Pond Overlay District and the Search and Rescue Overlay District. The applicant applied under Section(s) 240-3 C. of the Code of Falmouth to construct a below-grade garage with a 1.5 story addition above with renovations to the interior of the pre-existing nonconforming single-family dwelling. The structure has a nonconforming setback of 47' to the 3' contour line off the waters of Great Pond that requires a 50' setback pursuant to Section 240-68 D. of the Code of Falmouth. All other setbacks are in compliance with Section 240-68 A. and B.; and lot coverage is in compliance with Section 240-69 A. of the Code of Falmouth. The height of the existing dwelling is nonconforming at 37.2', under Section 240-70 of the Code of Falmouth, a dwelling height cannot exceed 35'. There is an existing below grade garage under the existing dwelling that will be converted to a laundry room and bathroom area, as well as other undesignated use space. The existing utility room in the basement will remain unfinished and unheated. There are three bedrooms on the second level of the existing dwelling and a bonus room with a powder room on the third level. The additional space created through the proposed additions will not increase the number of bedrooms; space will be renovated to create a master bedroom and bath on the second level and relocate a bedroom to space above the proposed garage addition. Testimony from applicant's representative was that the dwelling is assessed as a four bedroom dwelling, which may include the bonus room on third floor. The height of the existing dwelling is nonconforming at 37.2', the addition will be 33' from grade.

Section 240-3 C. 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 new garage addition with 1.5 stories above and covered front porch addition to the pre-existing nonconforming dwelling will not be substantially more detrimental than what currently exists. The Board further finds that the proposed addition meets all required setbacks under Section 240-68 A. and B. of the Code of Falmouth; the addition does not increase the nonconforming setback of 47' to the 3' contour line under Section 240-68 D. of the Code of Falmouth; and the garage with 1.5 stories above will not exceed the 35' height requirement under Section 240-70 of the Code of Falmouth. Furthermore, the Board finds that the additional living space is an enhancement to the utilization of the dwelling by its residents.

The Board finds through testimony that the grade will be slightly changed with 4" increase so that the new garage will be at same level grade as existing structure. The Board further finds that the plans show pavers will be laid at the apron and driveway area and existing pavement on driveway will be changed to crushed stone, thus improving drainage on site. Furthermore, the Board finds according to the plans submitted and noted below, two drywells will be installed on subject property – one at southwest corner of proposed garage and one at the southeast corner of the proposed garage.

The Board finds through testimony by the applicant's representative that the existing basement utility room and proposed garage addition will remain unfinished and unheated. The Board further finds that the existing shed at the southeast corner of the dwelling will be removed and not replaced or relocated on subject property. Furthermore, the Board finds through testimony by the applicant's representative that the existing septic system has the capacity for four bedrooms and that there are three existing and three will remain through this special permit approval.

The Board finds that the applicant received approval from the Conservation Commission for proposed addition and a copy of the 'Order of Conditions' have been submitted to the file.

In addition to the above findings, the Board finds that the proposed additions to the existing single-family

dwelling on subject property 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 additions as there is no new nonconforming setbacks, no increase in the nonconforming height of the existing dwelling, no increase to the nonconforming setback to the 3' contour line off the waters of Great Pond and lot coverage is in compliance with Town Code.
- B. The site is suitable for the proposed use as the property is zoned residential and there will be no change in the use of the existing single-family dwelling through this special permit approval.
- 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, however the driveway material will be improved so as to better maintain runoff onto subject property.
- 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 noted as a four bedroom system by the applicant's representative.
- 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.

The Board of Appeals has weighed the effects of the proposed additions as discussed herein and finds that the beneficial effects of granting this permit outweigh any negative effects there may be. The Board further finds that the granting of this permit will be in harmony with the purpose and intent of the Zoning Bylaw.

Member Murphy made a motion to Grant the Special Permit with conditions. Member Foreman 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 to 0 to Grant the Special Permit (herein referred to as Applicant) under Section(s) 240-3 C. of the Code of Falmouth to construct a below-grade garage with a 1.5 story addition above and renovations to the pre-existing nonconforming single-family dwelling on subject property known as 60 Rivers End Road, Teaticket, Massachusetts. This special permit is subject to the following conditions:

1. The construction of the garage and 1.5 story and covered front porch additions, all setbacks, height of addition, 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:

- "Plot Plan – Existing House" prepared for Kenneth and Juliann Webb 60 Rivers End Road East Falmouth, Massachusetts as drawn by BSS Design, Inc. - Drawing 1 of 3 '1 of 3 Existing Conditions' dated March 14, 2016 with a Board date 'received' stamp of June 23, 2016;
- "Plot Plan – Proposed Addition" prepared for Kenneth and Juliann Webb 60 Rivers End Road East Falmouth, Massachusetts as drawn by BSS Design, Inc. - Drawing 2 of 3 '2 of 3 Proposed Site Plan' dated March 14, 2016 with a final revision date of June 21, 2016 and a Board date 'received' stamp of June 23, 2016;
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- "Webb Residence" architectural plans drawn by Beatrice A. Bunker Architecture – ZBA filing 1 'Basement

& First Fl. Plans' not dated but with a Board date 'received' stamp of May 17, 2016, ZBA Filing 2 'Second & Third Floor Plans'; not dated - with a Board date 'received' stamp of May 17, 2016 and ZBA Filing 3 'Elevations', not dated - with a Board date 'received' stamp of May 17, 2016; and

- "Webb Residence" architectural plans - Existing dwelling - drawn by Beatrice A. Bunker Architecture consisting of Drawings EX1 through EX8 all dated November 5, 2015 - showing existing floor plans and elevations - all with a Board date 'received' stamp of May 17, 2016.

2. There shall be no more than four (4) bedrooms on subject property.

3. There shall be no bedrooms or sleeping accommodations created within the basement space of the dwelling.

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

6. 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.)

7. 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: 059-16

Applicant: KENNETH R. WEBB and JULIANN M. WEBB of Holliston, MA

Subject Property: 60 Rivers End Road, Teaticket, Massachusetts
Map 34, Section 06, Parcel 007, Lot 016

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 059-16 Webb, filed with Town Clerk 7/12/16