

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: 062-16

APPLICANT: ENTERPRISE RENT-A-CAR COMPANY OF BOSTON, LLC

OWNER: Falmouth 55 Davis LLC

SUBJECT PROPERTY: 55 Davis Straits, Falmouth, Massachusetts
Assessor's Map: Map 39, Section 15, Parcel 037, Lot 000

DEED/CERTIFICATE: Book 28750 / Page 06

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of May 31, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-51 B. (3) of the Code of Falmouth to convert the existing gas station to a rental car business on subject property known as 55 Davis Straits, Falmouth, MA.
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 Melissa Faradie 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

6/23/2016 E-mail Letter from Howard Grosser of 14 Spring Bars Road in support of the proposed project by Enterprise Rent-A-Car.

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

6/22/2016 E-mail from Enterprise representative to Zoning Administrator in response to question regarding employee parking area shown on plot plan submitted.

6/27/2016 E-mail from Enterprise representative to Zoning Administrator in response to question regarding 'drop-off' after hours vehicles.

6/30/2016 E-mail from Enterprise representative to Zoning Administrator in response to question regarding drainage in garage bay for washing of rental cars.

6/30/2016 E-mail from Enterprise representative to Zoning Administrator in response to question regarding possible closing of on-site curb-cut.

Letters/Referrals/E-mails from Town Departments

6/1/2016 Referral submitted to the file from the Planning Department staff that states: Applicant filed an application for a Site Plan Review with the Planning Board. It is scheduled to be on the June 7, 2016 Agenda.

6/7/2016 Referral submitted to the file from Conservation Commission Agent that states: No issues, provided drainage from stormwater is contained on the property.

6/7/2016 Referral submitted to the file from the Falmouth Fire Rescue Department with no comment.

6/9/2016 Referral submitted to the file from the Town Engineering Department with attached memo to Planning Board for Site Plan Review comments.

6/30/2016 E-mail response from Plumbing Inspector to Zoning Administrator in response to question of drainage regulations (attached is 248 CMR 142 regulation).

Plans submitted by Applicant/Applicant's Representative

"Site Plan" drawn by J. K. Holmgren Engineering, Inc. – Drawing C-1 – not dated – Colored plan showing proposed landscape with a Board date 'received' stamp of June 24, 2016;

"Site Plan" drawn by J.K. Holmgren Engineering, Inc. – Drawing C-1 dated 5/18/2016 – stamped and signed by John K. Holmgren, P.E. and stamped and signed by Scott M. Faria, PLS - with a Board date 'received' stamp of May 31, 2016;

"Landscape Development Plan" drawn by J.K. Holmgren Engineering, Inc. Drawing C-2 with a date of 6/15/2016 – stamped and signed by John K. Holmgren, P.E. and stamped and signed by Scott M. Faria, PLS – with a Board date 'received' stamp of June 24, 2016;

"Existing Plan & Elevations" prepared for Enterprise Rent-A-Car drawn by BKA Architects, Inc., stamped and signed by David Scott Seiber, Registered Architect dated 5/31/2016 and with a Board date 'received' stamp of May 31, 2016;

"Proposed Plan & Elevations" prepared for Enterprise Rent-A-Car drawn by BKA Architects, Inc., stamped and signed by David Scott Seiber, Registered Architect dated 5/31/2016 and with a Board date 'received' stamp of May 31, 2016; and

A Site Plan showing existing conditions for 55 Davis Straits, Falmouth, MA – not titled – not dated, drawn by MKA, National Coordinators of Land Survey Services, Sheet 1 of 1 stamped by Denis R. Sequin, PLS – not signed, with a Board date 'received' stamp of May 31, 2016.

Hearing:

Melissa Faradie reviewed the proposed changes to the site to convert from a gas station to an Enterprise Car Rental entity. She explained the Enterprise organization to the Board and that it is a world-wide Entity. She stated that 95% of the car rental business is reservation based, with 5% being walk-ins. She reviewed the site showing 25 parking spaces that includes one handicap space at the south side of the building, ten cars under existing canopy, four spaces directly in front of building and nine spaces on the north side of the property (3 of the 9 are designated employee parking). Ms. Faradie stated that the building will be renovated to create office space, the existing garage bay will be used to wash the rental cars, that the deteriorated fence in the rear will be removed and the property will be landscaped. She explained that there will be approximately four employees on the site at a time, two of which are Managers and drive rental cars to and from work, so that basically only two employee cars may be on-site at one time. Buzzard's Bay has a satellite Enterprise location where cars can be delivered to or pulled from.

Scott Faria, PLS with Enterprise reviewed the drainage on site and the parking layout as designed.

The Board discussed plans, hours of operation, parking, drainage and landscaping with Ms. Faradie and Mr. Faria. The applicant was amenable to eliminate one of the six spaces at the northerly side property line and one under the canopy closest to the southwest corner of the building.

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.

Chair 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 55 Davis Straits contains 25,461 square feet of Business 2 zoned land. The subject property has had previous special permits for gas station use and canopy. The existing canopy on subject property is nonconforming with a setback of 26' to Davis Straits which requires a 35' setback pursuant to Section 240-68 A. of the Code of Falmouth. The lot coverage on subject property is in compliance with Section 240-69 A. of the Code of Falmouth. The applicant applied under Section(s) 240-51 B. (3) of the Code of Falmouth to convert the existing gas station to a rental car business on subject property. Testimony by applicant and plans submitted show that the existing canopy and building will remain as existing with no change to footprint. Parking is shown on the plan and applicant agreed to remove two parking spaces and adjust handicap space – Board will require revised plans to be submitted prior to issuance of a Building Permit.

Section 240-51 B. (3) of the Code of Falmouth requires a Special Permit approved by the Board of Appeals to allow a vehicle sales or rental operation in a Business 2 zoned district.

The Board finds that the subject property where the vehicle rental operation for Enterprise Rent-A-Car Company (applicant) is proposed is an appropriate site as there will be less traffic impact that what was previously located there [gas station]. The Board further finds that the existing total lot coverage will be improved from 70% to 65% due to the proposed "Landscape Development Plan" – Drawing C-2 submitted to the file. Furthermore, the Board finds that the building and canopy on subject property will remain with the same footprint; interior renovations in the building will take place to create office space.

The Board finds that the applicant is amenable to removing two parking spaces – reducing parking to 24 spaces on site, and improving the proposed handicap space. The Board further finds through testimony by applicant's engineer (Scott Faria) that there will be no more than twenty-one (21) rental cars on subject property at one time. Furthermore, the Board further finds that the proposed landscaping will improve the site.

The Board finds through testimony by the applicant that there will not be more than four (4) employees on site during business hours and that managers drive rental cars to and from site – not personal vehicles. The Board further finds through testimony by the applicant that there will be no maintenance of any vehicles conducted on site; all maintenance will be done at a location off-site. Furthermore, the Board finds according to the applicant that washing of all rental cars will be done within the garage bay.

The Board finds through testimony by the applicant that the hours of operation for the Enterprise car rental operation will be Monday through Friday 8:00 AM to 6:00 PM and Saturday and Sunday hours will be 9:00 AM to 3:00 PM. The Board further finds through testimony by the applicant that 95% of the rentals on site are through reservations, with 5% being walk-ins. Furthermore, the Board finds that there will be no incidental retail sales (vending machines or other items) conducted on site at any time.

In addition to the above findings, the Board finds that the proposed car rental operation 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 car rental operation as there will be no change to the existing nonconforming setback to the front property line and total lot coverage will be reduced.
- B. The site is suitable for the proposed use in the Business 2 zoned district with approval by the Board of Appeals for a special permit.
- C. There will be a reduction in the impact of traffic flow and safety due to the conversion of subject property use from a gas station to the proposed car rental operation; and there is no change in the location of the three (3) existing curb cuts on subject property.
- D. The visual character of the subject property will be improved; and there is no impact on any view or vista from the roadway or abutting properties.
- E. The sewage disposal system will be signed off by the Board of Health and the drainage within the garage bay for car washing will be approved by the Plumbing Inspector prior to issuance of a building permit.
- F. There are adequate utilities to subject property by virtue of an existing business on site. However, the Applicant will have to contact the Town Water Department regarding updating of water service.
- G. The proposed car rental operation discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.
- H. There was Site Plan Review by the Planning Board with the Decision of said review submitted to the file and taken into consideration by the Board of Appeals.
- 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 car rental operation on subject property 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 Foreman 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 Enterprise Rent-A-Car Company of Boston, LLC (herein referred to as Applicant) under Section(s) 240-51 B. (3) of the Code of Falmouth to convert the existing gas station to a rental car business on subject property known as 55 Davis Straits, Falmouth, Massachusetts. This special permit is subject to the following conditions:

1. The "Site Plan" prepared for Enterprise Rent-A-Car dated 5/18/2016 drawn by J.K. Holmgren Engineering, Inc. – Drawing C-1 shall be revised showing the elimination of parking spaces as discussed herein bringing the parking space total to twenty-four (24) on site. The revised "Site Plan" shall be submitted to the Board of Appeals for approval prior to the issuance of a Building Permit.
2. The landscaping of subject property shall be as shown on the plan entitled "Landscape Development Plan" drawn by J.K. Holmgren Engineering, Inc. Drawing C-2 with a date of 6/15/2016 – stamped and signed by John K. Holmgren, P.E. and stamped and signed by Scott M. Faria, PLS – with a Board date 'received' stamp of June 24, 2016. All landscaping shall be completed prior to final inspection by the building inspector or the Board of Appeals.
3. Hours of operation for the applicant shall be 8:00 AM to 6:00 PM Monday through Friday and 9:00 AM to 3:00 PM on Saturday and Sunday.
4. There shall be no more than twenty-four (24) parking spaces total on subject property; three (3) employee parking and twenty-one (21) for rental cars.
5. There shall be no more than twenty-one (21) rental cars on subject property at one time.
6. Washing of all Enterprise rental cars shall be done within the garage bay only.

7. There shall be no maintenance of any vehicles conducted on subject property. All maintenance shall be done off-site.
8. There shall be no other retail sales, incidental or otherwise, conducted on subject property; this shall include vending machines.
9. 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.
10. The Applicant shall meet the requirements of the DPW Water Division.
11. 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.)
12. 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: 062-16

Applicant: ENTERPRISE RENT-A-CAR COMPANY OF BOSTON, LLC

Subject Property: 55 Davis Straits, Falmouth, Massachusetts
Map 39, Section 15, Parcel 037, Lot 000

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 062-16 Enterprise Rent a Car, filed with the Town Clerk 7/12/16