

Zoning Board of Appeals Decisions Decisions for: 12-01-2016

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 112-16

APPLICANT/OWNER: DOUGLAS J. EBBERS of Odessa, FL

SUBJECT PROPERTY: 22 Summit Lane, Hatchville, Massachusetts
Assessor's Map: Map 11, Section 01, Parcel 029, Lot 247

DEED/CERTIFICATE: Book 28524 / Page 243

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of October 26, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-38 G. (1)(b) of the Code of Falmouth to construct a second garage structure with space over 900 square feet on subject property known as 22 Summit Lane, Hatchville, 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 December 1, 2016.
4. The public hearing was terminated on December 1, 2016, wherein the Board consisting of Vice Chairman Kenneth Foreman – sitting as Chairman, Clerk Terrence Hurrie, Member Ed Van Keuren, Member Paul Murphy and Associate Gerald Potamis sitting as voting member, 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 Paul Breslin, 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

11/16/2016 E-mail letter of November 15, 2016 to Zoning Administrator from Ronald C. Dyer, Chairman of Architectural Review Committee for Balleymeade Property Owners Association – in support of application

12/01/2016 Letter submitted to the file from Deborah J. Foley of 12 Summit Lane who stated she is in favor of the proposed garage

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

10/26/2016 Paul Breslin submitted, on behalf of the applicant, an application, fee, letter of authorization, copies of site plan and copies of proposed elevations and floor plans for garage

10/26/2016 E-mail from applicant to ZBA staff regarding proposed plans and Architectural Committee of Balleymeade – response from ZBA

11/01/2016 E-mail from Mr. Breslin regarding referral from Conservation Commission – response from ZBA

11/15/2016 Applicant submitted a photo of existing dwelling with existing attached garage of 906 square feet in size

Letters/Referrals/E-mails from Town Departments

10/28/2016 Referral submitted to the file from Planning Department staff with no comment

10/31/2016 Referral submitted to the file from the Director of Assessing with no comment

10/31/2016 Referral submitted to the file from Conservation Commission with the note to contain stormwater on property.

11/03/2016 Referral submitted to the file from Falmouth Fire Rescue Department with no comment

11/21/2016 Referral submitted to the file from Engineering Department with standard comments and a recommendation to add drywells, rain garden or other stormwater measure for the roof.

Plans submitted by Applicant/Applicant's Representative

"Plan of Proposed Garage" prepared for Douglas Ebbers for Lot 247, #22 Summit Lane in Hatchville, Falmouth, MA as drawn by Holmes and McGrath, Inc. – Sheet 1 of 1 dated May 13, 2016 with a final revision date of 11/3/2016 – stamped and signed by Joel R. Kubick, PLS with a Board date 'received' stamp of November 9, 2016; and

"Ebbers Residence East Falmouth, MA" drawn by Salt Architecture – each drawing stamped and signed by Christopher D. Harris, RA – consisting of:

- Drawing A101 'First Floor Plan' final date of 9/18/2016
 - Drawing A102 'Roof and Loft Plan' final date of 9/18/2016
 - Drawing A200 'Exterior Elevations' final date of 9/18/2016
 - Drawing A201 'Exterior Elevations' final date of 9/18/2016
 - Drawing A301 'Building Section-Garage' final date of 9/18/2016
 - Drawing A302 'Building Section-Garage' final date of 9/18/2016
- All above Drawings have a Board date 'received' stamp of October 26, 2016

Hearing:

Paul Breslin reviewed the existing site conditions of subject property that included an existing two-car garage attached to the dwelling and the proposed 60' x 30' (approximately) garage addition to subject property. The proposed garage is attached to the existing dwelling structure through construction of a new sunroom with foundation that will be married into existing sunroom. The proposed sunroom will have access to the patio area off the pool and along the side of the proposed garage as shown on the plans submitted. He explained that the applicant intends to use the proposed garage to store a motor home and boat. Mr. Breslin noted that there is no intent to have the 400 square foot loft area on the second floor of the garage as habitable space or additional bedroom space, as he stated he believes it will be used for storage; the applicant is requesting to heat the garage; and a portion at the rear garage, as seen on the plan, will have access from the patio by the pool. He noted in response to the Engineering Department's referral that drywells are going to be installed at the rear of the garage in order to maintain stormwater on subject property.

The Board discussed plans with Mr. Breslin that included slightly moving the garage, decreasing the size of the garage and the use of the proposed additional garage. All concerns and questions were addressed.

Chairman Foreman asked for any public comment in support or opposition of the proposed project.

Ron Dyer, Chairman of the Balleymeade Architectural Committee, stated support of the project and noted common land that separates abutters as a buffer.

Member Van Keuren made a motion to close the hearing. Member Hurrie 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 22 Summit Lane in Hatchville contains 1.6 acres of Agricultural AA zoned land that is located within the Wild Life Corridor Overlay and within a portion of the Natural Heritage and Endangered Species Program Overlay. There was a previous Variance issued to the Developer of Balleymeade regarding building envelopes on properties within the development. In 2000 a modification to the Variance was granted to allow the dwelling on subject property to be built outside of the developer's recommended building site. As of August 2016 an application to modify a Variance is allowed through special permit process and therefore the application is appropriately before this Board. The applicant applied under Section(s) 240-38 G. (1)(b) of the Code of Falmouth to allow garage space over 900 square feet on subject property. Testimony from the applicant's representative was that the garage will be to store a mobile home and a boat, with the southerly portion of the garage, approximately 20' x 30' in size, that will be used as accessory to the pool via a 'pavilion' just outside that leads to an in-ground pool and patio area; he stated that there will be no bedroom or kitchen area within this garage structure. The proposed garage is connected to the existing dwelling/garage structure via a proposed sunroom addition added to an existing sunroom.

Section 240-38 G. (1)(b) of the Code of Falmouth allows the Board of Appeals to approve a special permit allowing garage space for more than two cars if the lot is less than 30,000 square feet in size or if the footprint of the garage is more than 900 square feet or 50% of the footprint of the principal structure.

The Board finds that there is an existing two-car garage attached to the single-family dwelling on subject property. The Board further finds that the request herein is to add a second 60' x 30' (approximately) attaching it to the existing structure via a sunroom addition with foundation; the garage will be heated and allow the applicant to store a recreational vehicle and boat. Furthermore, the Board finds through testimony by the applicant's representative that the proposed garage, including the loft space on 2nd level of approximately 400 square feet will not have any bedroom(s), sleeping accommodations or cooking facilities and there is no bathroom proposed within the garage structure according to plans submitted and approved herein.

The Board finds that the proposed garage addition on subject property has been approved by the association of Balleymeade (see letter in file). The Board further finds that the file shows approval of the project by an abutter; and that there were no letters in opposition by any party submitted to the file.

The Board finds that the proposed garage addition on subject property will meet setback requirements pursuant to Section 240-68 B. of the Code of Falmouth. The Board further finds that the subject property, through this special permit approval, will be in compliance with lot coverage requirements set forth in Section 240-69 A. of the Code of Falmouth. Furthermore, the Board finds through testimony by the applicant's representative that, although not shown on the "Plan of Proposed Garage" submitted to the file and reviewed by the Board, drywells will be installed at the rear of the proposed garage addition to maintain runoff from the roof of said structure.

In addition to the above findings, the Board finds that the proposed 60' x 30' (approximately) garage 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 garage addition as all setback and lot coverage requirements will be in compliance with Town code as noted above.
- B. The site is suitable for the proposed use as the property is used as a single-family dwelling and the proposed garage addition will be an accessory use to the primary single-family dwelling.
- 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 proposed garage will not be seen

from the roadway so there is 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 existing sewage disposal system will be unaffected by the proposed garage addition discussed herein, but will be reviewed by the Board of Health prior to a building permit being issued.

F. There are adequate utilities to subject property by virtue of an existing dwelling on site. G. The proposed garage addition on subject property 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 30' x 60' (approximately) garage structure 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 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 Douglas J. Ebbers (herein referred to as Applicant) under Section(s) 240-38 G. (1)(b) of the Code of Falmouth to construct a second garage structure with space over 900 square feet on subject property known as 22 Summit Lane, Hatchville, MA. This special permit is subject to the following conditions:

1. The construction and location of the garage, all setbacks, lot coverage and use of garage space shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

"Plan of Proposed Garage" prepared for Douglas Ebbers for Lot 247, #22 Summit Lane in Hatchville, Falmouth, MA as drawn by Holmes and McGrath, Inc. – Sheet 1 of 1 dated May 13, 2016 with a final revision date of 11/3/2016 – stamped and signed by Joel R. Kubick, PLS with a Board date 'received' stamp of November 9, 2016; and

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All above Drawings have a Board date 'received' stamp of October 26, 2016

2. Drywells shall be installed at the rear of the proposed garage structure as stated by applicant's representative during hearing process.

3. There shall be no bedrooms or sleeping accommodations created within the proposed garage structure approved herein.

4. There shall be no cooking facilities of any kind located within the garage structure, including but not limited to, a microwave oven, a toaster oven or a cook stove.

5. 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.

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 three 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: 112-16

Applicant: DOUGLAS J. EBBERS of Odessa, Florida

Subject Property: 22 Summit Lane, Hatchville, Massachusetts
Map 11, Section 01, Parcel 029, Lot 247

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 112-16 Ebbers, filed w/ Town Clerk 12/13/16