

Zoning Board of Appeals Decisions Decisions for: 02-25-2016

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 008-16

APPLICANT/OWNER(S): REGINA L. QUINLAN of Charlestown, MA

SUBJECT PROPERTY: 140 Seacoast Shores Blvd., East Falmouth, MA
Assessor's Map: Map 32, Section 15, Parcel 000F, Lot 047

DEED/CERTIFICATE: Book 28841 / Page 306

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of January 13, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 and 240-69 E. of the Code of Falmouth to construct an addition creating habitable space to the pre-existing nonconforming single-family dwelling on subject property known as 140 Seacoast Shores Boulevard, 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 February 25, 2016.
4. The public hearing was terminated on February 25, 2016, wherein the Board consisting of Chairman Kimberly Bielan, Clerk Terrence Hurrie, Member Ed Van Keuren and Associate Mark Cool 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 James Malerba 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

2/25/2016 E-mail from Eula Walsh of 49 Columbus Drive, stating support of the proposed addition.

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

Several e-mails submitted to the file from the ZBA staff to Representative Malerba regarding plans.

Letters/Referrals/E-mails from Town Departments

2/9/2016 Referral submitted to the file by the Engineering Department (S. Schluter) that states: This application was reviewed only for impacts to public right of ways and public utilities. Seacoast Shores Blvd and Columbus Drive are Public right of ways in this area. No alterations are proposed to the right of way; any changes within the right of way would require filing a permit with the Engineering Division. 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. NOTE: There appears to be fairly recent landscaping along Columbus Dr. that may fall within the Town right of way; the Town will not be responsible for any landscaping in the right of way and retains

the right to remove or trim should there be safety issues in the future.

1/25/2016 A referral was submitted to the file from Marine Environmental Services with no comment.

1/19/2016 A referral was submitted to the file by Building Commissioner Eladio Gore that states: Not in flood Zone – No issue.

1/15/2016 A referral was submitted to the file by the Planning Department staff with no comment.

1/15/2016 A referral was submitted by the Falmouth Fire Rescue Department with no comment.

2/24/2016 Staff submitted lot coverage calculations for subject property with photos of homes in the general vicinity.

Plans submitted by Applicant/Applicant's Representative

2/22/2016 "Certified Plot Plan 140 Seacoast Shores Boulevard in East Falmouth, Massachusetts" prepared for Regina L. Quinlan as drawn by Cape & Islands Engineering dated 1/5/2016 with a revision date of 2/22/16 – stamped and signed on 2/22/16 by Matthew C. Costa, PLS and with a Board date 'received' stamp of 2/22/2016;

"Regina Quinlan Residence 140 Seacoast Shores Blvd Falmouth, MA" architectural plans drawn by The Architectural Team, Inc. consisting of Sheet Numbers A1.01 'Scheme #4 Proposed Basement Plan', A1.02'Scheme #4 Proposed Ground Floor Plan', A4.01, A4.02 and A4.03 'Demo & New Elevations' – all Sheets have a final revision date of 2/20/2016, stamped and signed by Robert J. Verrier, RA and with a Board date 'received' stamp of February 22, 2016.

Hearing:

James Malerba briefly reviewed the proposed plan to add an addition between the existing dwelling and detached garage to create a new master bedroom/bathroom and mudroom that will connect to the existing garage.

The Board discussed plans with Mr. Malerba and asked if the existing septic system had capacity for additional bedroom as proposed. Mr. Malerba did not know. The Board discussed lot coverage and use of basement, which Mr. Malerba said is unfinished and the proposed addition will be on crawl space.

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

Stach Szuplat of 139 Seacoast Shores Blvd stated he is in support of the project, has reviewed the plans and will be the plumber for the proposed additions.

Member Van Keuren made a motion to close the hearing. Member Hurrie seconded the motion. Motion carried 4 - 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 140 Seacoast Shores Boulevard in East Falmouth contains 8,137 square feet of Residential C zoned land that is located within the Eel Pond Coastal Pond Overlay District. The applicant applied under Section(s) 240-3 and 240-69 E. of the Code of Falmouth to construct an addition creating habitable space to the pre-existing nonconforming single-family, one-story dwelling on subject property. The existing dwelling has a nonconforming setback to the front yard property line of 21.4' that requires a 25' setback pursuant to Section 240-68 A. of the Code of Falmouth. The lot coverage by structures existing is in compliance with Section 240-69 A. of the Code of Falmouth. The addition will be constructed between the dwelling and the detached garage, connecting the two structures through the addition. The addition consists of a master bedroom/bathroom and a mud room. The dwelling is a single-story two-bedroom dwelling that will remain single-story but will have an additional bedroom. The Board

of Health did not submit a referral so this Board is relying on the process the applicant will need to do to receive a building permit that requires review by Board of Health prior to issuance of a building permit.

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 addition to the existing single-family dwelling, connecting the detached garage to said dwelling will not be substantially more detrimental than what currently exists. The Board further finds that there is no increase in the existing nonconforming setback, nor will there be any new nonconforming setback through this special permit request. Furthermore, the Board finds that the lot coverage by structures will be increased beyond the 20% maximum allowed in a residential zoned district and the applicant applied for said relief by this Board under Section 240-69 E. of the Code of Falmouth.

The Board finds that the addition to the existing single-family dwelling on subject property will be an enhancement of utilization by the applicant. The Board further finds that the existing dwelling is a two-bedroom dwelling and the proposed will add a third bedroom that will require review and sign off by the Board of Health prior to issuance of a building permit for proposed addition. Furthermore, the Board finds through testimony by the applicant's representative that there are no bedrooms or habitable space in the basement of subject structure.

The Board finds that the addition will be constructed with a crawl space. The Board further finds that the height of the proposed addition will not exceed the height of the existing dwelling.

Section 240-69 of the Code of Falmouth – "Maximum lot coverage." – subsection E. requires an application to the Board of Appeals for approval to increase the percentage of lot coverage by structure(s) exceeding 20%, up to 25%. The Board's determination must take into consideration the size and height of the structure in relation to the average size and height of structures in the neighborhood, any effect of shadow on an adjacent lot, any impact on a view or vista from a public roadway or any effect of nitrogen on a coastal embayment.

The Board finds that the proposed addition to the existing single-story dwelling, which will increase the lot coverage by structures to 23.1% and connect the detached garage to said dwelling is in keeping with the average size and height of structures within the neighborhood. The Board further finds that there will be no shadow effect on abutting lots or any impact on a view or vista from a public road. Furthermore, the Board finds that there will be no impact by the addition to any coastal embayment.

In addition to the above findings, the Board finds that the proposed addition to the pre-existing nonconforming one-story single-family dwelling 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 addition as it will not increase the nonconforming setback, create new nonconforming setbacks and is herein approved under Section 240-69 E. to increase the lot coverage by structures to 23.1%.
- 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 the Board feels that the addition of a third bedroom on subject property is minimal and there is no change in the location of the existing driveway on site.
- 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 will require approval by the Board of Health prior to the issuance of a building permit.
- 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 addition to the existing dwelling 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 4 – 0 to Grant a Special Permit to Regina L. Quinlan (herein referred to as Applicant) under Section(s) 240-3 and 240-69 E. of the Code of Falmouth to construct an addition creating habitable space to the pre-existing nonconforming single-family dwelling on subject property known as 140 Seacoast Shores Boulevard, East Falmouth, Massachusetts. This special permit is subject to the following conditions:

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

- "Certified Plot Plan 140 Seacoast Shores Boulevard in East Falmouth, Massachusetts" prepared for Regina L. Quinlan as drawn by Cape & Islands Engineering dated 1/5/2016 with a revision date of 2/22/16 – stamped and signed on 2/22/16 by Matthew C. Costa, PLS and with a Board date 'received' stamp of 2/22/2016;

- "Regina Quinlan Residence 140 Seacoast Shores Blvd Falmouth, MA" architectural plans drawn by The Architectural Team, Inc. consisting of Sheet Numbers A1.01 'Scheme #4 Proposed Basement Plan', A1.02'Scheme #4 Proposed Ground Floor Plan', A4.01, A4.02 and A4.03 'Demo & New Elevations' – all Sheets have a final revision date of 2/20/2016, stamped and signed by Robert J. Verrier, RA and with a Board date 'received' stamp of February 22, 2016.

2. The Special Permit shall be contingent upon the approval by the Board of Health for the addition of a bedroom to the single-family dwelling on subject property. The applicant will submit proof of Board of Health's approval prior to issuance of a building permit. Such proof may be Board of Health's signature on building permit application, which shall be done prior to Board of Appeals sign off.

3. In the event the Board of Health approves the third bedroom as required in Condition 2 above, this Board conditions that there shall be no more than three (3) bedrooms allowed on subject property through this special permit approval.

4. There shall be no shed allowed on subject property without approval by the Board of Appeals. As of this approval, there is no shed on subject property.

5. There shall be no bedrooms created within the basement of subject dwelling.

6. 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.

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

8. 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.)

9. 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: 008-16

Applicant: REGINA L. QUINLAN of Charlestown, MA

Subject Property: 140 Seacoast Shores Boulevard, East Falmouth, MA
Map 32, Section 15, Parcel 000F, Lot 047

Action: The Board of Appeals, by the signature below, being present, certifies the vote of the Board as follows for the above referenced:

Vote: 4 – 0 to Grant the Special Permit as represented to the Board, based on the Findings stated herein and with the above stated Conditions.

Kimberly Bielan, 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:

SP 008-16 / R. Quinlan / Filed w/Town Clerk 3/4/16