

## Zoning Board of Appeals Decisions Decisions for: 07-14-2016

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 064-16

APPLICANT/OWNER(S): JEANNE T. JACKMAN of Millbury, MA

SUBJECT PROPERTY: 2 Lookout Avenue, Falmouth, Massachusetts  
Assessor's Map: Map 47B, Section 07, Parcel 016, Lot 001

DEED/CERTIFICATE: Book 5356 / Page 177

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of June 3, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. and 240-68 A. and B. of the Code of Falmouth to convert attic space with an addition creating habitable space in the pre-existing nonconforming single-family dwelling on subject property known as 2 Lookout Avenue, 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 July 14, 2016.
4. The public hearing was terminated on July 14, 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 Joel Kubick, PLS with Holmes and McGrath, 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)

6/2/2016 Holmes and McGrath, Inc. submitted bulk coverage analysis for neighborhood area with attached locus.

Letters/Referrals/E-mails from Town Departments

6/6/2016 Referral submitted to the file from the Planning Department staff with no comment.

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

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

6/21/2016 Referral submitted to the file from Marine & Environmental Services with no comment.

7/5/2016 Referral submitted to the file from the Engineering Department (S. Schluter) with standard comments and an additional note that states: We recommend adding dry wells, rain garden, or other stormwater measure for the roof because the lot appears to drain towards Lookout Ave which discharges directly to Nantucket Sound via Town Outfall #12.

7/6/2016 Referral submitted to the file from the Building Department with no comment.

Plans submitted by Applicant/Applicant's Representative

"Plan of Existing Conditions" prepared for Jeanne T. Jackman for Lot 1, #2 Lookout Avenue in Falmouth Heights Falmouth, Mass drawn by Holmes and McGrath, Inc. – Sheet 1 of 1 dated November 30, 2015 with a revision date of 5/27/16 and a Board date 'received' stamp of June 2, 2016;

"Plan of Proposed House Renovations & Reconstruction" prepared for Jeanne T. Jackman for Lot 1, #2 Lookout Avenue in Falmouth Heights Falmouth, Mass drawn by Holmes and McGrath, Inc. – Sheet 1 of 1 dated May 31, 2016 with a Board date 'received' stamp of June 2, 2016;

"Jackman Residence" drawn by Beatrice A. Bunker Architecture consisting of Drawings EX-1 through EX-5 all dated May 28, 2016 and with a Board date 'received' stamp of June 2, 2016; and

"Jackman Residence" drawn by Beatrice A. Bunker Architecture consisting of drawings ZBA Filing 1 and 2 showing Proposed 2nd and 3rd floor plan and elevations – dated June 1, 2016 and with a Board date 'received' stamp of June 2, 2016.

Hearing:

Joel Kubick, PLS with Holmes and McGrath, Inc. reviewed the existing site conditions and the proposed change in the roof line of the second floor and converting existing attic space into a loft family room with a bath. The second floor currently has five bedrooms and one bath; through renovations of the second floor there will be four bedrooms and two bathrooms and a stairway to the newly created loft family room on the half floor on third level. The height of the building will be increase from 24' to 27' through the change and increase of head room for what was the attic space.

Beatrice A. Bunker, project Architect, reviewed the plans for the second and third floor. The dwelling had five bedrooms and through the renovation there will remain four bedrooms and the newly created loft family room. The balcony on the second floor was enclosed to create a walk-in closet for the master bedroom created through the renovation. Ms. Bunker explained that there will be gutters on the new roof line that will run into drywells.

The Board discussed plans with Mr. Kubick and Ms. Bunker. 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.

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 2 Lookout Avenue in Falmouth contains 4,050 square feet of Residential C zoned land that is not located within any overlay district. The applicant applied under Section(s) 240-3 C. and 240-68 A. and B. of the Code of Falmouth to convert the existing attic space into habitable space, with an addition and increase in roof line to the pre-existing nonconforming single-family dwelling on subject property. The dwelling interior is being renovated; there are five existing bedrooms on the second

floor and through the renovation four bedrooms will remain. One of the five bedrooms is being used to create a master bathroom and a stairway to the attic space that will have an addition and increase in roof line to create a loft/family roof. The second floor balcony will be enclosed to create a walk-in closet for a bedroom that will be renovated into a master bedroom with bath. The lot coverage by structures and the lot coverage of structures, parking and paving greatly exceed the 20% for structures and 40% for total lot coverage allowed in a residential zoned district pursuant to Section 240-69 A. of the Code of Falmouth. The lot coverage is proposed to be very slightly improved from 45.5% for structures to 45.4% and for total coverage from 73.1% to 73.0%. The very slight reduction in lot coverage is due to the removal of a portion of a second story deck. There is a large paved driveway on subject property which adds to the total coverage of 73%.

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 addition and increase in roof line to convert the attic space to a loft/family room with a half-bath in the pre-existing nonconforming dwelling is not substantially more detrimental than what currently exists. The Board further finds that the proposed does not increase the footprint of the structure and therefore does not increase any nonconforming setback; or increase the nonconforming lot coverage on subject property. Furthermore, the Board finds that the height of the dwelling structure will be increased from 24' to 27', which the Board considers to be a minimal increase and not detrimental to the neighborhood character.

The Board finds that the applicant's representative is amenable to additional drywells being installed on subject property if necessary to maintain stormwater runoff on-site.

The Board finds through a letter submitted to the file by Holmes and McGrath, Inc. dated June 3, 2016 with a Board date 'received' stamp of June 3, 2016, stating that the single-family dwelling is connected to an existing Title 5 septic system. The Board further finds that the existing floor plan of the dwelling shows five bedrooms and the proposed plan shows four bedrooms and a loft/family room, half bath and storage area on a third floor.

In addition to the above findings, the Board finds that the proposed alterations to the 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 as there will be no increase in the existing footprint of the dwelling and no increase in the nonconforming lot coverage. The lot coverage will be just slightly reduced by .1%.
- B. The site is suitable for the proposed use as the property is zoned residential and will continue to be maintained as a 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 slightly 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. A sewage disposal system is in place and sign off for the proposed changes to the single-family dwelling approved herein is required by the Board of Health prior to 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 dwelling alteration 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 alteration to the pre-existing nonconforming single-family dwelling 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 Jeanne T. Jackman (herein referred to as Applicant) under Section(s) 240-3 C. and 240-68 A. and B. of the Code of Falmouth to convert attic with an addition creating habitable space in the pre-existing nonconforming single-family dwelling on subject property known as 2 Lookout Avenue, Falmouth, MA. This special permit is subject to the following conditions:

1. The alterations, setbacks, lot coverage, number of bedrooms, roof height and use of third floor loft/family room shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

- "Plan of Existing Conditions" prepared for Jeanne T. Jackman for Lot 1, #2 Lookout Avenue in Falmouth Heights Falmouth, Mass drawn by Holmes and McGrath, Inc. – Sheet 1 of 1 dated November 30, 2015 with a revision date of 5/27/16 and a Board date 'received' stamp of June 2, 2016;

- "Plan of Proposed House Renovations & Reconstruction" prepared for Jeanne T. Jackman for Lot 1, #2 Lookout Avenue in Falmouth Heights Falmouth, Mass drawn by Holmes and McGrath, Inc. – Sheet 1 of 1 dated May 31, 2016 with a Board date 'received' stamp of June 2, 2016;

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2. There shall be no more than five (5) bedrooms allowed on subject property.

3. 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.

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

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: 064-16

Applicant: JEANNE T. JACKMAN of Millbury, MA

Subject Property: 2 Lookout Avenue, Falmouth, Massachusetts  
Map 47B, Section 07, Parcel 016, Lot 001

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.

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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 064-16 Jackman/filed w/ Town Clerk 7/25/16