

Zoning Board of Appeals Decisions Decisions for: 09-29-2016

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 091-16

APPLICANT/OWNER: JOHN P. GRACI, JR. of Hatchville, MA

SUBJECT PROPERTY: 620 Boxberry Hill Road, Hatchville, MA
Assessor's Map: Map 11, Section 02, Parcel 007, Lot 005

DEED/CERTIFICATE: Book 29408 / Lot 334

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of August 17, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-38 G. (4)(b) of the Code of Falmouth to park/store a vehicle over 13,000 GVW for personal use on subject property known as 620 Boxberry Hill Road, East 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 September 29, 2016.
4. The public hearing was terminated on September 29, 2016, wherein the Board consisting of Acting Chairman Terrence Hurrie, Acting Clerk Paul Murphy, Member Ed Van Keuren 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 present at the hearing and 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

09/19/2016 E-mail from Betsy Doud of 640 Boxberry Hill Road stating concern of large vehicles and trailer on property and materials brought to property – submitted photos.

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

08/17/2016 Applicant submitted application, fee, plot plan, copy of Truck/Trailer Registration and photo of truck and trailer for special permit.

Letters/Referrals/E-mails from Town Departments

08/18/2016 Referral from Town Assessor was submitted to the file with no comment

08/24/2016 Referral from Planning Department Staff was submitted to the file with no comment

08/30/2016 Referral from Falmouth Fire Rescue Department was submitted to the file with no comment

09/09/2016 Referral from Engineering Department submitted to the file has standard comments

09/20/2016 Referral from Conservation Commission was submitted to the file with no comment

Plans submitted by Applicant/Applicant's Representative

"Plot Plan" prepared for John Graci located at #620 Boxberry Hill Road East Falmouth, Massachusetts as drawn by Stephen Doyle and Associates dated October 12, 2015 – stamped and signed by Stephen J. Doyle on 10/20/2015 – plan has a Board date 'received' stamp of August 17, 2016.

Hearing:

John Graci, Jr. reviewed his request to be allowed to park/store his 2015 Chevrolet, black Silverado pickup that weighs 14,000 pounds on subject property. He explained that he is in the process of landscaping his back yard which is why he has boulders, loam and other material on site and other trucks visiting site.

The Board discussed plans with Mr. Graci and asked about time frame for work being completed on property and what time of day he started his truck. Mr. Graci stated he doesn't leave for work until after 7:00 AM and that the truck does have a back-up beeper. He said as the plans show, the truck and trailer will be parked on the south side of the dwelling and will be buffered. All concerns and questions were addressed.

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

Margaret Morgan of 626 Boxberry Hill Road spoke in support of applicant noting that he working on improving his property and that she is not disturbed by his truck/trailer on site (she is immediate abutter to the north). She also stated that there are a number of properties in the general area that have work trucks (with names/logos) parked daily and overnight.

Elizabeth Doud of 640 Boxberry Hill Road spoke in opposition to the storing of his truck on his property. She stated he has decimated his property and pulled out plants; there is a tent on the side of his house; he has too many trucks on site; and boulders being dumped on site (she resides three properties to the north).

Mr. Graci explained that the tent is storage for his lawn mower and other personal items that need to be contained until landscaping is done. He stated the tent is temporary and he hopes to have work completed by spring.

Member Murphy made a motion to close the hearing. Member Van Keuren seconded the motion. Motion carried 4 - 0.

Acting Chairman Hurrie 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 620 Boxberry Hill Road in Hatchville contains 29,301 square feet of Agricultural A zoned land that is located within the Zone II Overlay, the Water Resource Protection Overlay, the Natural Heritage and Endangered Species Overlay and a Wildlife Corridor Overlay. The applicant applied under Section(s) 240-38 G. (4)(b) of the Code of Falmouth to be allowed to park/store his 2015 black, Chevrolet Silverado pickup truck that weighs over 13,000 Gross Vehicle Weight and his box trailer on the subject property that he is owner of. Mr. Graci, based on his testimony, is a contractor and uses the pickup truck for business as well as a personal vehicle. He gave testimony that he does not operate a business from the subject property; that all business is conducted off-site.

Section 240-38 G. (4)(b) of the Code of Falmouth the Board of Appeals may grant approval of a special permit to allow outside parking of any commercially registered vehicle with a gross vehicle weight of more than 13,000 pounds.

The Board finds through testimony and through submission of the vehicle's registration that the applicant is the owner of a vehicle (Black Chevrolet Silverado Pickup) that weighs more than 13,000 GVW and a

box trailer that weighs approximately 7,000 pounds and that said truck and trailer will be parked outside on subject property owned by the applicant. The Board finds that the applicant submitted a plan showing the intent to park the truck and trailer discussed herein at the southerly side of the dwelling on subject property. Furthermore, the Board further finds that the applicant has submitted a plan showing that the front property line and the southerly side yard property will be buffered in order to screen the pickup truck and trailer from view of the roadway.

The Board finds through testimony by the applicant that he is in the process of bringing in material such as loam, boulders, plantings, etc. to landscape the property; he also has the use of extra trucks and equipment that may be on subject property during the day to assist in bringing materials and to complete landscape plan. The Board further finds through testimony by the applicant that the landscaping of subject property will be done by the Spring of 2017.

The Board finds through discussion with the applicant that he understands that there shall be no other trucks or heavy equipment over 13,000 GVW staged on subject property overnight; that all trucks and equipment assisting the applicant in the landscape plan shall not be left on-site overnight.

The Board finds through testimony by the applicant that he does not operate a landscape business and that he does not operate a business from subject property.

The Board finds that the approval herein to park/store a specific vehicle over 13,000 GVW and a trailer on subject property is only for the vehicle and trailer specified in the RMV Registrations submitted to the file and not for any other vehicle, trailer or equipment. The Board further finds that if the applicant replaces subject vehicle or trailer, he will be conditioned to submit a copy of the RMV Registration to the file.

In addition to the above findings, the Board finds that the proposed parking/storing of a truck over 13,000 GVW and a box trailer 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 parking/storing of the pickup truck and trailer discussed herein as the vehicle(s) will be parked/stored at the southerly side of the existing dwelling and screened from view of the roadway (Boxberry Hill Road).

B. The site is suitable for the proposed use as the property is zoned Agricultural A and is a residential use; and the use of the vehicle and trailer does not include a home occupation or home-based service business and will not change the use of the single-family dwelling on said property.

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 improved as the applicant is landscaping the property and will screen the vehicle and trailer so as not to be visible from roadway; and there appears to be no impact on any abutting properties.

E. The sewage disposal system is unaffected by this application.

F. There are adequate utilities to subject property by virtue of an existing dwelling on site.

G. The proposed parking/storing of a truck and trailer as 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 parking/storing of a vehicle over 13,000 GVW on subject property, as well as a box trailer, 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 4 – 0 to Grant the Special Permit to John P. Graci, Jr. (herein referred to as Applicant) under Section(s) 240-38 G. (4)(b) of the Code of Falmouth to park/store a vehicle over 13,000 GVW with a trailer for personal use on subject property known as 620 Boxberry Hill Road, Hatchville, Massachusetts. This special permit is subject to the following conditions:

1. The truck and trailer will be parked/stored overnight on the southerly side of the dwelling as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

- "Plot Plan" prepared for John Graci located at #620 Boxberry Hill Road East Falmouth, Massachusetts as drawn by Stephen Doyle and Associates dated October 12, 2015 – stamped and signed by Stephen J. Doyle on 10/20/2015 – plan has a Board date 'received' stamp of August 17, 2016.

2. There shall be no home occupation or homebased service business allowed to be operated from subject property without a special permit by the Board of Appeals.

3. In the event Mr. Graci, Jr. replaces the vehicle and/or trailer approved herein, he shall be required to submit to the Board of Appeals forthwith a copy of the RMV Registration of said vehicle or trailer.

4. In the event Mr. Graci, Jr. would like to park or store other vehicles or trailers on subject property, in addition to what is approved herein, he shall be required to apply for a modification of this special permit to the Board of Appeals.

5. Violation of any of the conditions set forth herein may be cause for revocation of this Special Permit.

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. 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.)

8. Due to applicant's testimony that the vehicle and trailer discussed herein is currently on subject property, the applicant shall file this permit within sixty (60) days from the expiration date of the appeal period. Failure to file this special permit within said time frame may result in revocation of this permit. Decision of the Falmouth Zoning Board of Appeals Continued:

Special Permit Number: 091-16

Applicant: JOHN P. GRACI, JR. of Hatchville, MA

Subject Property: 620 Boxberry Hill Road, Hatchville, MA
Map 11, Section 02, Parcel 007, Lot 005

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.

Terrence J. Hurrie, Acting Chairman, 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 091-16 Graci, Jr./Filed with the Town Clerk 10/7/16