

## Zoning Board of Appeals Decisions Decisions for: 03-10-2016

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 011-16

APPLICANT/OWNER(S): ROBERT C. BLOMBERG & WENDY P. BLOMBERG  
of Hingham, MA

SUBJECT PROPERTY: 559 Woods Hole Road, Woods Hole, Massachusetts  
Assessor's Map: Map 51, Section 05, Parcel 000, Lot 005A

DEED/CERTIFICATE: Certificate 208055 – Lot A-5, Plan 7064-D

SUMMARY: Special Permit Granted with Conditions

### PROCEDURAL HISTORY

1. Under a date of January 20, 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 additions creating habitable space along with a screen porch to the pre-existing nonconforming single-family dwelling on subject property known as 559 Woods Hole Road, Woods Hole, 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 March 10, 2016.
4. The public hearing was terminated on March 10, 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 by Greg Jones, the project Architect, who reviewed existing site conditions and proposed additions.
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)

3/10/2016 Greg Jones, applicant's representative, submitted revised calculations (original 2/22/16 submission) for bulk and lot coverage calculations.

1/20/2016 Greg Jones, applicant's representative, submitted application, plans, fee and CD with pdf of 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. Woods Hole Road is a State right of way in this area. Any alterations within the right of way will require permission from MassDOT. 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.

1/28/2016 Referral submitted to the file by the Falmouth Fire Rescue Department with no comment.

1/20/2016 Referral submitted to the file by the Assistant Town Planner on behalf of the Historical District Commission states: Please refer to the Historic Districts Commission's Decision dated January 11, 2016 (copy attached).

1/20/2016 Referral submitted to the file by the Planning Department staff with no comment.

Plans submitted by Applicant/Applicant's Representative

1/19/2016 "Site Plan for Wendy and Robert Blomberg 559 Woods Hole Road Woods Hole – Falmouth, MASS" as drawn by Warwick & Associates Inc. dated 4/28/2015 with a final date of 12/10/2016 – stamped and signed by Gary S. Labrie, PLS on 1/19/2016 and with a Board date 'received' stamp of January 19, 2016;

"Proposed Renovation & Addition to the Blomberg Residence" drawn by Gregory Jones, Architect consisting of Drawing Numbers:

- EX-01 'Existing Floor Plans' dated 12/9/2015, revised 2/18/2016 with Board date 'received' stamp of 2/22/2016
- EX-02 'Existing Exterior Elevations' dated 12/9/2015 with a Board date 'received' stamp of 1/19/2016
- A-00 'Proposed Basement Floor Plan' dated 12/9/2015 revised 2/18/2016 and with a Board date 'received' stamp of 2/22/2016
- A-01 'Proposed First Floor Plan' dated 12/9/2015 and with a Board date 'received' stamp of 1/19/2016
- A-02 'Proposed Second Floor Plan' dated 12/9/2015 and with a Board date 'received' stamp of 1/19/2016
- A-03 'Proposed Exterior Elevations' dated 12/9/2015 and with a Board date 'received' stamp of 2/22/2016
- A-04 'Proposed Exterior Elevations' dated 12/9/2015 revised 2/18/2016 and with a Board date 'received' stamp of 2/22/2016

Hearing:

Mr. Jones reviewed the site plan with the Board and explained the existing nonconforming front yard setback of 18.3'.

Ms. Budrow explained to the Board that the application may need to be amended to include a request for variance as the front yard setback proposed is 17.3' – encroaching on the already nonconforming 18.3' setback. Ms. Budrow apologized to the Board and applicant for not seeing that previously as the plan looks like the 17.3' is existing and 18.3' is proposed, when in fact it is the opposite.

Mr. Jones stated that he will revise plans to show that the front yard setback will be maintained at 18.3'. He explained that the family room addition will be no less than 25.6' from the front property line and the screen porch addition will be no closer than 24.8' to the front property line.

The Board discussed the plans with Mr. Jones and asked if the plans can be altered so that the lot coverage by structures do not exceed the 20% maximum. Mr. Jones discussed possible alterations that may get lot coverage to 20%. He questioned the Board on type of review required in the event the applicant would like a three-season room instead of a screen porch.

Chairman Bielan asked for any public comment in support or opposition of the proposed project. There was no public comment.

Member Murphy made a motion to close the hearing. Member Van Keuren seconded the motion. Motion carried 5 - 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 559 Woods Hole Road in Woods Hole contains 11,637 square feet of Residential C zoned land that is located within the Historical District Overlay District. The existing single-family dwelling on subject property has a nonconforming setback to the front property line off Woods Hole Road of 18.3' that requires a 25' setback pursuant to Section 240-68 A. of the Code of Falmouth. The lot coverage by structures and structures, parking and paving as existing, is in compliance with Section 240-69 A. of the Code of Falmouth. The applicant applied under Section(s) 240-3 and 240-69 E. of the Code of Falmouth to construct a family room addition with a full basement below; add a screen porch off the southeast corner (front) of the dwelling with access to office/study space; construct a mudroom addition at the rear of the dwelling off the proposed kitchen area; and reconstruct the front porch to create a covered front porch with steps to grade. The proposed covered front porch would create a variance as it would encroach the nonconforming setback creating a more nonconforming setback of 17.3'. The additions of a family room and a screen porch increase the lot coverage by structures from 12.1% to 20.3%. The dwelling is a 1.5 story, three-bedroom dwelling that is being renovated as well as constructing the additions noted herein. There will be no increase in the number of bedrooms through this application.

The Board discussed issues regarding the increase in the nonconforming front yard setback and gave guidance to the applicant regarding the requirements for the Board to approve a variance for what appears to be a self-imposed increase of a nonconforming setback. The Board further discussed the issue of lot coverage being substantially increased from 12.1% to 20.3% and asked the applicant to revisit the plans to see if lot coverage can be maintained at the 20% maximum by right in this residential district.

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 additions to the pre-existing single-family dwelling will not be substantially more detrimental than what currently exists as long as the conditions set forth herein are met. The Board further finds that the applicant is amenable to revise plans of the covered front porch design in order to not increase the existing nonconforming setback of 18.3' to the front property line off Woods Hole Road. Furthermore, the Board finds that the applicant is also amenable to work with the plans proposed herein so that the lot coverage by structure does not exceed the 20% maximum allowed by right in a residential district.

Section 240-69 E. of the Code of Falmouth requires a special permit by the Board of Appeals to increase lot coverage by structures in a residential district above the 20% maximum, but not to exceed 25%. This bylaw requires the Board to consider, before any determination, that the size and height of proposed, whether proposed creates a shadow effect on adjacent property(s), any impacts on views or vistas from public ways and if there is any effect of nitrogen on coastal embayment.

The Board finds that relief under this section of the Town bylaw is not relevant as the applicant is amenable to alter plans in order to maintain lot coverage by structures at or less than the maximum of 20% allowed by right under Section 240-69 A. of the Code of Falmouth.

The Board finds that the applicant is undecided about the screen porch (as proposed) or convert it to a three-season room with no heat. The Board has no objection to a three-season room but will condition that it not be heated and not become a bedroom. The Board further finds through testimony by the applicant's representative that the existing and proposed basement area is for storage use and is unfinished.

The Board finds through testimony by the applicant's representative that the applicant has an easement for driveway and access to subject property over Lot A12 [owned by Woods Hole Oceanographic Institute].

In addition to the above findings, the Board finds that the proposed additions to existing 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 additions as there will be no increase in the existing nonconforming front yard setback and lot coverage by structures shall not exceed 20% as allowed by right.
- 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 there is no increase in the number of bedrooms on the property and there is no change in the location of the existing driveway to site.
- D. 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 is in place and the Board of Health will sign off on proposed additions, if there are no objections, prior to issuance of a building permit.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site.
- G. The proposed additions 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 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 Robert C. and Wendy P. Blomberg (herein referred to as Applicant) under Section(s) 240-3 of the Code of Falmouth to construct additions creating habitable space as well as a screen porch addition to the pre-existing nonconforming single-family dwelling on subject property known as 559 Woods Hole Road, Woods Hole, Massachusetts. This special permit is subject to the following conditions:

1. The plans noted on page 2 and 3 above shall be revised showing that the proposed covered front porch will not exceed the 18.3' setback to the front property line off Woods Hole Road; and that minor alterations are made so that lot coverage by structures does not exceed 20%. The revised plans (3 copies of each) shall be submitted to the Board of Appeals for approval prior to the issuance of a building permit.
2. The setback from the front porch of the single-family dwelling to the front property line off Woods Hole Road shall be no less than 18.3'. In the event the front porch encroaches closer to the front property line of subject property off Woods Hole Road, the applicant shall file an application for a Variance of the front yard setback prior to issuance of a building permit.
3. There shall be no heat installed within the three-season room proposed herein to replace the screen porch shown on the plans.
4. Lot coverage by structures on subject property shall be maintained at 20% or less. There shall be no shed located on subject property without prior approval by the Board of Appeals or the Zoning Administrator.
5. There shall be no more than three (3) bedrooms allowed on subject property.
6. There shall be no bedroom or sleeping accommodations created within any basement space on subject property.
7. 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.
8. The Applicant shall meet the requirements of the DPW Water Division.
9. 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.) 10. 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: 011-16

Applicant: ROBERT C. BLOMBERG & WNDY P. BLOMBERG  
of Hingham, MA

Subject Property: 559 Woods Hole Road, Woods Hole, Massachusetts  
Map 51, Section 05, Parcel 000, Lot 005A

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 # 011-16 / Blomberg / Filed w/Town Clerk 3/21/16