

## Zoning Board of Appeals Decisions Decisions for: 05-12-2016

[Close Window](#)

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 041-16

APPLICANT/OWNER(S): FERNANDA CERIBELLI, TRUSTEE of F CERIBELLI INVESTMENT TRUST of East Falmouth, MA

SUBJECT PROPERTY: 180 Lake Shore Drive, East Falmouth, Massachusetts  
Assessor's Map: Map 27, Section 05, Parcel 009, Lot 034K

DEED/CERTIFICATE: Book 11688 / Page 0100

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of March 25, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. of the Code of Falmouth to construct an addition to expand existing living room and kitchen within the pre-existing nonconforming single-family dwelling on subject property known as 180 Lake Shore Drive, 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 May 12, 2016.
4. The public hearing was terminated on May 12, 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 Joao Junquiera with Cape Wide Enterprises 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)

3/25/2016 Application with fee and plans submitted to Board of Appeals

Letters/Referrals/E-mails from Town Departments

3/29/016 Referral submitted by the Planning Department staff with no comment.

3/31/2016 Referral submitted by the Falmouth Fire Rescue Department with no comment.

4/7/2016 Referral submitted by the Engineering Department (S. Schluter) that states with standard comments and a recommendation to add drywells, rain garden or other stormwater measure for the addition's roof because the front yard appears to drain towards Lake Shore Drive.

4/22/2016 Referral from Conservation Commission Agent Kasprzyk that states: Provided all stormwater contained on property using drywells, basins or trench drains – steep slope across street has runoff going into Jenkins Pond.

4/29/2016 Referral from Interim Building Commissioner Brandolini with no comment.

Plans submitted by Applicant/Applicant's Representative

"Plot Plan at 180 Lake Shore Drive Falmouth, MA 02536" drawn by JC Engineering, Inc. dated January 21, 2016, revised date of 3/18/16 – stamped, signed and dated by John L. Churchill, Jr., PLS on 3/18/16 and with a Board date 'received' stamp of Mar. 25, 2016;

"Proposed Addition/Renovations Ceribelli Residence 180 Lake Shore Dr. E. Falmouth" drawn by SPB Designs consisting of Drawing A1 dated 3/22/16 showing elevations, Drawing A2 dated 3/22/16 showing proposed floor plans, Drawing A3 dated 3/22/16 showing cross-sections and framing and Drawing A4 date 3/22/16 showing roof framing plan – all with a Board date 'received' stamp of Mar. 25, 2016.

Hearing:

Mr. Junquiera reviewed the existing site conditions, work being conducted presently with a building permit and the proposed addition that will increase the living room and kitchen areas.

The Board discussed plans with Mr. Junquiera, including the concern of drywells as noted in two referrals submitted. All concerns and questions were addressed and Mr. Junquiera stated that drywells will be added to the plan for approval.

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

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 180 Lake Shore Drive in East Falmouth contains 10,176 square feet of Residential C zoned land that is located within the Great Pond Coastal Pond Overlay District and the Water Resource Protection Overlay District. The applicant applied under Section(s) 240-3 C. of the Code of Falmouth to construct an addition to expand living room and kitchen within the pre-existing nonconforming single-family dwelling. The applicant previously received administrative approval by the Zoning Administrator to lift the existing roof and change roof line in order to add more head room in the two upstairs bedrooms (see photos in Adm Appr #13-16). The dwelling structure has a nonconforming setback of 4.6' to the southerly side yard property line that requires a 10' setback pursuant to Section 240-68 B. of the Code of Falmouth. Lot coverage, existing and proposed, are in compliance with Section 240-69 A. of the Code of Falmouth. The applicant is desirous of constructing an 8' x 22' addition to the northerly façade (side) of the existing dwelling to increase the living room and kitchen spaces. The existing dwelling is under renovation at this time.

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 to the first floor of the pre-existing nonconforming single-family dwelling will not be substantially more detrimental than what currently exists. The Board finds that the proposed addition does not create any new nonconformities, or increase the existing nonconforming side yard setback. Furthermore, the Board finds that the proposed addition will enhance the utilization of the dwelling by its residents.

The Board finds that through testimony and plans submitted that there are four existing bedrooms with no additional bedrooms proposed. The Board further finds through testimony by applicant's representative and plans submitted showing a 1,500 gallon septic tank and proposed reserve area, that the septic system on subject property has been recently installed and has four-bedroom capacity.

The Board finds through testimony by the applicant's representative that the applicant is amenable to installing drywells at the front and rear corner of the 8' x 22' addition to control stormwater runoff onto subject property.

In addition to the above findings, the Board finds that the proposed addition is small and 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 create any new nonconformities and it will not increase the existing nonconforming setback.
- 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 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 as there are several houses in the surrounding area that have been improved such as this; 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 signed off as a four bedroom system by the Board of Health.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site.
- G. The proposed addition to the 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.

The Board of Appeals has weighed the effects of the proposed addition to the dwelling increasing the living room and kitchen spaces 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 Fernanda Ceribelli (herein referred to as Applicant) under Section(s) 240-3 C. of the Code of Falmouth to construct an 8' x 22' addition to expand existing living room and kitchen within the pre-existing nonconforming single-family dwelling on subject property known as 180 Lake Shore Drive, East Falmouth, Massachusetts. This special permit is subject to the following conditions:

1. The 8' x 22' addition to the first floor, 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:

- "Plot Plan at 180 Lake Shore Drive Falmouth, MA 02536" drawn by JC Engineering, Inc. dated January 21, 2016, revised date of 3/18/16 – stamped, signed and dated by John L. Churchill, Jr., PLS on 3/18/16 and with a Board date 'received' stamp of Mar. 25, 2016 [Note: See Condition 2 regarding revised plot plan showing drywells];

- "Proposed Addition/Renovations Ceribelli Residence 180 Lake Shore Dr. E. Falmouth" drawn by SPB

Designs consisting of Drawing A1 dated 3/22/16 showing elevations, Drawing A2 dated 3/22/16 showing proposed floor plans, Drawing A3 dated 3/22/16 showing cross-sections and framing and Drawing A4 date 3/22/16 showing roof framing plan – all with a Board date 'received' stamp of Mar. 25, 2016.

2. The applicant shall install drywells on subject property to maintain stormwater runoff. Any stormwater runoff shall be maintained on subject property and not be directed to any abutting property or roadway.

3. The applicant shall revise the "Plot Plan" noted in Condition 1 above to show location of drywells to be installed per this Decision. The revised plan shall be submitted to the Board of Appeals for approval prior to the issuance of a building permit.

4. 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.

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: 041-16

Applicant: FERNANDA CERIBELLI, TRUSTEE of F Ceribelli Investment Trust of East Falmouth, MA

Subject Property: 180 Lake Shore Drive, East Falmouth, MA  
Map 27, Section 05, Parcel 009, Lot 034K

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 # 041-16 / Ceribelli, TR / Filed w/Town Clerk 5/18/16