

Zoning Board of Appeals Decisions Decisions for: 05-26-2016

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FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 044-16

APPLICANT/OWNER(S): SACCONNESSET GOLF SOCIETY LLC dba TGC
of North Falmouth, MA

SUBJECT PROPERTY: 132 Falmouth Woods Road, East Falmouth, MA
Assessor's Map: Map 11, Section 01, Parcel 014, Lot 002

DEED/CERTIFICATE: Book 29390 / Page 263

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of April 7, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-68 A. (8) and 240-70 D. of the Code of Falmouth to construct an accessory structure for equipment storage in the front yard more than 50 feet from the front property line with a building height up to 25' on subject property known as 132 Falmouth Woods 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 May 26, 2016.
4. The public hearing was terminated on May 26, 2016, wherein the Board consisting of Vice Chairman Kenneth Foreman acting as Chairman, 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 Kelly Durfee Cardoza with Avalon Consulting Group, LLC, 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

5/26/2016 Letter dated May 26, 2016 from Tim Reardon, President of Ballymeade Property Owners Association, Inc. stating support of the proposed maintenance building.

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

4/1/2016 E-mail from Kelly Durfee Cardoza to Zoning Administrator regarding conveyance of subject property from The Golf Club of Cape Cod to Sacconnesset Golf Society LLC in January of 2016 and review of proposed by Cape Cod Commission.

Letters/Referrals/E-mails from Town Departments

4/8/2016 ZBA staff submitted copies of previous Special Permits #92-10 and #91-02 to the file.

4/11/2016 Referral submitted to the file from Marine Environmental Services with no comment.

4/11/2016 Referral submitted to the file from the Planning Department staff with no comment.

4/14/2016 Referral submitted to the file from Water Superintendent Stephen Rafferty that states: There is either a 12" or 8" available water line. Any water service would need to be applied for at DPW building. No apparent issues for water service foreseen.

4/21/2016 Referral submitted to the file from the Falmouth Fire Rescue Department with no comment.

4/22/2016 Referral submitted to the file from Conservation Commission with no comment.

5/3/2016 Referral submitted to the file from the Engineering Department (S. Schluter) that states: This application was reviewed only for impacts to public right of ways and public utilities. Falmouth Woods Rd is a Private right of way in this area. 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.

Plans submitted by Applicant/Applicant's Representative

"Plot Plan of Proposed Building" prepared for Sacconnet Golf Society LLC for Parcel 1, #132 Falmouth Woods Road in Hatchville, Falmouth, MA – Sheet 1 of 1 drawn by Holmes and McGrath, Inc. dated April 7, 2016 with a final revision date of 4/8/2016 and a Board date 'received' stamp of April 8, 2016;

"Proposed Floor Plans & Elevations" prepared for TGC – Equipment Storage Building drawn by Rescom Architectural, Inc. – Drawing A1.0 dated 3/30/2016 and with a Board date 'received' stamp of April 7, 2016.

Hearing:

Kelly Durfee Cardoza reviewed previous special permit #92-10 for subject property that granted a five year extension to construct the commercial accommodations and cold storage building that was granted in Special Permit #91-02 along with a golf course. The golf course has been constructed, but not the commercial accommodations or the cold storage building. The cold storage building is being requested herein as a metal maintenance that will be located approximately in the same location as when approved in 2010. There will be no heat or water within the building proposed. The proposed building will not be as tall as the originally approved maintenance building and it will have approximately 230 less square feet. The building is 118' long x 34' wide.

The Board discussed plans with Ms. Cardoza. All concerns and questions were addressed.

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

There was no public comment.

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

Chairman Foreman 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 132 Falmouth Woods Road in East Falmouth contains 156.05 acres of Agricultural AA zoned land that is located within the Wild Harbor Coastal Pond Overlay District, the Wildlife Corridor District and the Natural Heritage and Endangered Species Program Overlay District (NHESP). The applicant applied under Section(s) 240-68 A. (8) and 240-70 D. of the Code of Falmouth to allow the construction of a maintenance building on subject property to serve as storage for the golf course. The right side of the building will have a height of 23' and the left side of the building will have a height of 19'. The maintenance building is an accessory building and will be located in the front yard off

Falmouth Woods Road on subject property.

Section 240-68 A. (8) of the Code of Falmouth requires that a special permit is required for any accessory structure in a front and that said accessory structure must be 50 feet or more away from the front property line.

The Board finds that the proposed maintenance building is 16' from a lot, owned by John W. Holland that juts into the subject property and therefore is more than 10' from what may be considered a side property line. The Board further finds that the accessory structure is an incidental use to the Sacconneset Golf Course and is located in close proximity to another accessory structure (office/work shop) used by Sacconneset Golf Course.

The Board finds through testimony by the applicant that there will be no water service or electricity within the proposed maintenance building. The Board further finds that the proposed maintenance building has been slightly reduced from the building originally proposed in the 2010 Special Permit noted herein.

Section 240-70 D. of the Code of Falmouth allows the Board of Appeals to approve a special permit for an accessory structure to have a height of 25' if it exists on a lot that is more than two (2) acres in size.

The Board finds that the subject property consists of 156.5 acres of land and therefore the proposed accessory maintenance building may be allowed a height of up to 25'. The Board finds that the highest ridge height of the proposed maintenance building will be 23' and that said height is appropriate for the subject property and the use of the maintenance building.

In addition to the above findings, the Board finds that the proposed accessory maintenance building 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 maintenance building as it is located on a 156.5 acre parcel and meets all dimensional requirements pursuant to Section 240-68 A. (8) as determined by the Board and Section 240-69 A. of the Code of Falmouth.
- B. The site is suitable for the proposed accessory use as the property is a golf course and the proposed accessory maintenance building will be an incidental use to said golf course.
- C. There will be no impact on traffic flow and safety through this special permit as the maintenance building will be used and attended by employees of the existing golf course.
- D. The visual character of the subject property will not be affected by the proposed maintenance building; and there is no impact on any view or vista from the roadway or abutting properties.
- E. The sewage disposal system for the golf course is not affected as there is no water service to the proposed maintenance building approved herein.
- F. There are adequate utilities to subject property by virtue of an existing use on site.
- G. The proposed maintenance building 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 maintenance building on subject property 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 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 the Special Permit to Sacconneset Golf Society LLC dba TGC (herein referred to as Applicant) under Section(s) 240-68 A. (8) and 240-70 D. of the Code of Falmouth to allow the construction of an accessory structure (metal

building) for equipment storage on subject property located at 132 Falmouth Woods Road, East Falmouth, MA. This special permit is subject to the following conditions:

1. The proposed maintenance building shall be located and used as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:

- "Plot Plan of Proposed Building" prepared for Sacconneset Golf Society LLC for Parcel 1, #132 Falmouth Woods Road I Hatchville, Falmouth, MA – Sheet 1 of 1 drawn by Holmes and McGrath, Inc. dated April 7, 2016 with a final revision date of 4/8/2016 and a Board date 'received' stamp of April 8, 2016;

- "Proposed Floor Plans & Elevations" prepared for TGC – Equipment Storage Building drawn by Rescom Architectural, Inc. – Drawing A1.0 dated 3/30/2016 and with a Board date 'received' stamp of April 7, 2016.

2. The maintenance building approved herein shall not have a water service connection and shall not be heated.

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. 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.)

5. 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: 044-16

Applicant: SACCONNESSET GOLF SOCIETY LLC dba TGC

Subject Property: 132 Falmouth Woods Road, East Falmouth, MA
Map 11, Section 01, Parcel 014, Lot 002

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, 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 044-16 / Sacc.Golf Soc. / Filed w/Town Clerk 6/3/16