

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 125-16
APPLICANT/OWNER: DAVID B. PERRON and ELLIE PERRON of East Falmouth, MA
SUBJECT PROPERTY: 30 Narragansett Street, Teaticket, MA
Assessor's Map: Map 39A, Section 20, Parcel 000, Lot 067
DEED/CERTIFICATE: Certificate #210640 – Lots 67, 68 & 69 – Plan 4286-A (Plate 12)
SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of December 5, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to construct an attached garage to the pre-existing nonconforming dwelling with habitable space above, with lot coverage exceeding the 20% allowed by-right on subject property known as 30 Narragansett Street, Teaticket, 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 January 12, 2017.
4. The public hearing was terminated on January 12, 2017, wherein the Board consisting of Vice Chairman Kenneth Foreman sitting as Chair, 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 Steve Cook of Cotuit Bay Design, 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)

None

Letters/Referrals/E-mails from Town Departments

- 12/6/2016 Referral submitted to the file from the Planning Department with no comment
- 12/6/2016 Referral submitted to the file from Falmouth Fire Rescue with no comment
- 12/6/2016 Referral submitted to the file from Board of Health Agent Carignan noting no more than four bedrooms allowed on subject property.
- 12/6/2016 Referral submitted to the file from Conservation Commission that states: *Contain stormwater on property through gutters to dry wells and trench drain in driveway. Drainage onto Narragansett Street pitches down to Little Pond.*
- 1/11/2017 ZBA staff submitted lot coverage calculations for proposed addition on subject property and existing surrounding properties

Plans submitted by Applicant/Applicant's Representative

“Plot Plan for Bruce Perron #30 Narragansett Street Falmouth, MA” drawn by Warwick & Associates dated 11/29/2016, stamped, signed and dated 1/29/2016 by Gary S. Labrie, PLS and with a Board date ‘received’ stamp of December 2, 2016;

“Existing Condition Plan for: Perron Residence 30 Narragansett Rd., Falmouth, MA” drawn by Cotuit Bay Design, LLC – consisting of Drawing No’s EX1, EX2 and EX3 all dated 12/13/2016 showing floor plans and elevations of existing dwelling and with a Board date ‘received’ stamp of December 15, 2016; and

“New Remodeling For: Perron Residence, 30 Narragansett Rd., Falmouth, MA” drawn by Cotuit Bay Design, LLC – consisting of Drawing No’s A1 through A4 – all dated 12/13/2016 showing proposed floor plans and elevations and with a Board date ‘received’ stamp of December 15, 2016.

Hearing:

Steve Cook reviewed the existing site conditions and proposed 16.5’ x 24’ garage addition to the pre-existing nonconforming dwelling. He noted that the nonconformity is the 15.79’ setback from the structure to the front property line that is required to be 25’. The proposed garage structure will be 22’ from the front property line. The existing lot coverage of 14.5% will be increased to 20.9% which exceeds the 20% by-right and therefore requires a special permit under Section 240-69 E. of the Code of Falmouth. Mr. Cook stated there is a shed on the property that will be remaining. The garage will be attached to the dwelling and the second floor will allow for the existing bedroom to be increased in size; no new bedrooms proposed.

The Board discussed plans with Mr. Cook. 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 Murphy 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 30 Narragansett Street contains approximately 7,200 square feet of Residential C zoned land that is located within the Little Pond Coastal Pond Overlay District. The existing dwelling has a nonconforming setback of 15.79' to the front property line off Narragansett Street and the existing shed located in the northeast corner of subject property has a nonconforming setback of 1.3' to the rear property line which requires a 10' setback as it appears that the shed is over 100 square feet in size. The applicant applied under Section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to construct an attached 16.5' x 24' garage to the pre-existing nonconforming dwelling while increasing the lot coverage from 14.5% to 20.9%, exceeding the 20% maximum coverage by structures in this zoned district. The garage will be 22' from the front property line and will not increase the existing nonconforming setback to the front property line; and the ridge height of the garage will be slightly less than that of the existing dwelling. The garage will have a second floor that will flow into the main dwelling and allow an existing bedroom to be increased in size. There are four (4) existing bedrooms – two on first level and two on second level. The number of bedrooms on subject property will remain four through this special permit approval. There is an existing shed on the property that will remain.

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 attached garage addition to the pre-existing nonconforming dwelling will not be substantially more detrimental than what currently exists. The Board further finds that the proposed garage will not increase the nonconforming setback to the front yard and will be in compliance with the setbacks to the side and rear property lines. Furthermore, the Board finds that the proposed attached garage will create additional living area to an existing bedroom and enhance the utilization of the second floor of the subject dwelling.

Section 240-69 E. of the Code of Falmouth requires special permit approval from the Zoning Board of Appeals to exceed the 20% maximum lot coverage by structures allowed in a Residential C zoned district after the Board considers the criteria set forth in said section.

The Board considered Section 240-69 E. criteria and finds the following:

- The Board finds that the proposed attached garage to the pre-existing nonconforming single-family dwelling is appropriate in size and height in comparison to other dwelling structures in the surrounding neighborhood;
- The Board finds that the proposed attached garage will not overshadow any adjacent property;
- The Board finds that there will be no impact from any view or vista from a roadway due to the proposed attached garage; and
- The Board finds there will be no effect of nitrogen on any coastal embayment.

In addition to the above findings, the Board finds that the proposed attached garage to the pre-existing nonconforming 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 attached garage as there is no increase to the nonconforming setback from the structure to the front property line; the proposed meets the side and rear property line setbacks; and the increase in lot coverage from structures is minimally over the allowed 20% maximum by right in a residential zoned district and does not impact the integrity of the neighborhood.

B. The site is suitable for the proposed use as the property is zoned residential and is used as a single-family dwelling which such use will be unchanged through this special permit approval.

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 and is scheduled to be attached to the Town sewer in the near future.

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

G. The proposed garage addition 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.

The Board of Appeals has weighed the effects of the proposed construction of an attached garage to the pre-existing nonconforming 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 Van Keuren made a motion to Grant the Special Permit with conditions. Member Murphy 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 David B. and Ellie Perron (herein referred to as Applicant) under Section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to construct an attached garage to the dwelling with living space on the second floor located on subject property known as 30 Narragansett Street, Teaticket, Massachusetts. This special permit is subject to the following conditions:

1. The construction of the attached garage, all setbacks, height of garage, lot coverage and use of garage and space on second floor of said garage shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
 - “Plot Plan for Bruce Perron #30 Narragansett Street Falmouth, MA” drawn by Warwick & Associates dated 11/29/2016, stamped, signed and dated 1/29/2016 by Gary S. Labrie, PLS and with a Board date ‘received’ stamp of December 2, 2016;
 - “Existing Condition Plan for: Perron Residence 30 Narragansett Rd., Falmouth, MA” drawn by Cotuit Bay Design, LLC – consisting of Drawing No’s EX1, EX2 and EX3 all dated 12/13/2016 showing floor plans and elevations of existing dwelling and with a Board date ‘received’ stamp of December 15, 2016; and
 - “New Remodeling For: Perron Residence, 30 Narragansett Rd., Falmouth, MA” drawn by Cotuit Bay Design, LLC – consisting of Drawing No’s A1 through A4 – all dated 12/13/2016 showing proposed floor plans and elevations and with a Board date ‘received’ stamp of December 15, 2016.
2. There shall be no more than four (4) 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. 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 three 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: 125-16

Applicant: **DAVID B. PERRON and ELLIE PERRON of East Falmouth, MA**

Subject Property: **30 Narragansett Street, Teaticket, Massachusetts
Map 39A, Section 20, Parcel 000, Lot 067**

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.