

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 126-16

APPLICANT/OWNER: JOHN M. GUALTIERI of Canton, Massachusetts

SUBJECT PROPERTY: 45 Maple Street, Teaticket, Massachusetts
Assessor's Map: Map 46A, Section 23, Parcel 000, Lot 083

DEED/CERTIFICATE: Certification #210393 – Lots 82, 83 & 84 – Plan 4286A (Plate 15)

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of December 7, 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 a full dormer at rear of dwelling, add to existing at northeast corner and create new covered porch at entry of the pre-existing nonconforming single-family dwelling located at 45 Maple Street, Teaticket, 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 February 23, 2017.
4. The public hearing was terminated on February 23, 2017, wherein the Board consisting of Chairman Kimberly Bielan, Vice Chairman Kenneth Foreman, Clerk Terrence Hurrie, Member Ed Van Keuren and Associate Robert Dugan (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 Mark Anderson, 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

01/20/2017 Letter via e-mail was submitted to the file from Justin Cronin of 28 Hiawatha Street, Teaticket, MA – Mr. Cronin stated that he has no objection to the proposed project on subject property.

01/06/2017 Letter via e-mail was submitted to the file from Joanne W. Reid of 29 Hiawatha Street, Teaticket, MA – Ms. Reid stated no objection to the proposed project on subject property.

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

12/13/2016 Applicant's Architect responded to a question from the ZBA staff regarding height of existing dwelling – it is 24'10".

Letters/Referrals/E-mails from Town Departments

12/14/2016 Referral submitted to the file from Conservation Commission that states: *Keep any stormwater off driveway.*

12/15/2016 Referral submitted to the file from Director of Assessing that noted parcel consists of Lots 82, 83 and 84.

12/15/2016 Referral submitted to the file from Falmouth Fire Rescue Department with no comment

12/16/2016 Referral submitted to the file from Planning Board staff with no comment

01/04/2017 Referral submitted to the file from Engineering Department that states: *This application was reviewed only for impacts to public right of ways and public utilities. Maple Street is a Public right of way in this area. No alterations are proposed to the right of way; any changes within the right of way would require filing a permit with the Engineering Division. 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

“Certified Plot Plan 45 Maple Street, Falmouth, Massachusetts” drawn by Cape & Islands Engineering – Sheet 1 of 1 dated 9/28/2016, stamped, signed and dated by Matthew C. Costa, PLS on 10/6/2016 and with a Board date ‘received’ stamp of December 7, 2016; and

“Addition/Renovation Design Gualtieri Residence 45 Maple Ave. Falmouth, MA” plans drawn by Architecture by SPB Consisting of Drawings A1 through A3 and S1 and S2 – all dated 10/14/2016 and with a Board date ‘received’ stamp of December 7, 2016.

Hearing:

Mark Anderson reviewed the existing dwelling structure and the proposed addition of a new front entry that will not be any closer to the front property line than the existing nonconforming setback of 13.4', the addition of a full dormer to the second floor at the rear of the dwelling to increase head room; and to alter the existing porch area at the northeast corner (front) of the dwelling [that sits back from the front façade of dwelling], including a small portion of it into the existing living area on first floor and to create a new smaller porch area. There are four existing bedrooms currently and the proposed plan

shows that two bedrooms on the second floor will be combined to increase one of the bedrooms and make it a master bedroom with bath and walk-in closet, thus reducing the number of bedrooms to three. Mr. Anderson explained that there are existing gutters on the front and rear side of the dwelling with down spouts and that there have been no drainage issues – all stormwater is maintained on site. The height of the existing dwelling will remain at 24' 10".

The Board discussed plans with Mr. Anderson. All concerns and questions were addressed.

Chairman Bielan 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 Foreman 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 45 Maple Street in Teaticket contains 7,200 square feet of Residential C zoned land that is located within the Little Pond and Great Pond Coastal Pond Overlay Districts. The applicant applied under Section(s) 240-3 C. of the Code of Falmouth to construct a full dormer to second floor on rear façade, alter existing porch area at the northeast corner (front) and create a new covered front entry to the pre-existing nonconforming single-family dwelling on subject property. The existing dwelling has a nonconforming setback of 13.4' to the front property line off Maple Street that requires a 25' setback pursuant to Section 240-68 A. of the Code of Falmouth. The existing lot coverage by structures is in compliance at 19.3% that will be increased to 19.6% through this special permit approval and will remain in compliance of Section 240-69 A. of the Code of Falmouth. The existing dwelling has four bedrooms, however through alterations proposed on the interior, there will be three (3) remaining in dwelling.

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 additions (dormer, alteration and addition to northeast corner porch and new coverage porch entry) to the pre-existing nonconforming dwelling will not be substantially more detrimental than what currently exists. The Board further finds that the proposed addition of a covered entry at the front of the dwelling will not extend or increase the nonconforming setback of 13.4' to the front property line. Furthermore, the Board finds that the lot coverage by structures (that includes the existing shed) will be increased to 19.6%, which will be in compliance with Section 240-69 A. of the Code of Falmouth.

The Board finds according to the plans reviewed and approved herein that the bedroom count will be decreased from four bedrooms to three bedrooms. The Board further finds that the applicant is proposing

interior renovations that will allow the residents to better utilize the dwelling. Furthermore the Board finds that the subject property is on Town sewer.

The Board finds through testimony by the applicant's representative that the dwelling has gutters with down spouts on the front and rear of the dwelling that will remain so as to control stormwater runoff on site. The Board further finds that the existing dwelling height of 24'10" will remain the same through this special permit approval.

In addition to the above findings, the Board finds that the proposed plans discussed and reviewed herein 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 as there will be no increase in the existing nonconforming setback from the structure to the front property line and that the lot coverage by structures will remain below the 20% maximum allowed by right [Section 240-69 A.].
- B. The site is suitable for the proposed residential use as the property is zoned Residential C and the dwelling will be maintained as a single-family dwelling.
- 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 subject property is on Town sewer.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site. However, the Applicant will have to contact the Town Water Department regarding updating of water system as there was no referral submitted to the file from the Water Department regarding possible updating of water service.
- 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.

The Board of Appeals has weighed the effects of the proposed changes to the pre-existing nonconforming single-family dwelling as noted and 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 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 John M. Gualtieri (herein referred to as Applicant) under Section(s) 240-3 C. of the Code of Falmouth to construct a full dormer to second floor on rear façade, alter existing porch area at the northeast corner (front) and create a new covered front entry to the pre-existing nonconforming single-family dwelling on subject property known as 45 Maple Street, Teaticket, Massachusetts. This special permit is subject to the following conditions:

1. The dormer, alteration and extension of existing porch at northeast corner of dwelling and new covered front entry, all setbacks, lot coverage, height of structure and use of dwelling shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
 - “Certified Plot Plan 45 Maple Street, Falmouth, Massachusetts” drawn by Cape & Islands Engineering – Sheet 1 of 1 dated 9/28/2016, stamped, signed and dated by Matthew C. Costa, PLS on 10/6/2016 and with a Board date ‘received’ stamp of December 7, 2016; and
 - “Addition/Renovation Design Gualtieri Residence 45 Maple Ave. Falmouth, MA” plans drawn by Architecture by SPB Consisting of Drawings A1 through A3 and S1 and S2 – all dated 10/14/2016 and with a Board date ‘received’ stamp of December 7, 2016.
2. The applicant shall maintain the gutters and downspouts on dwelling so as to control runoff and to maintain all runoff on subject property.
3. The applicant shall submit to the Board of Appeals, prior to the final inspection by the Building Department and final sign off by Zoning Administrator, an ‘as-built’ plan – post construction (with all decks and porches noted) to insure that the nonconforming setback of 13.4’ to the front property line and the lot coverage by structures will be as shown on the plans submitted and approved herein.
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. The Applicant shall meet the requirements of the DPW Water Division.
6. 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.)
7. 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: **126-16**

Applicant: **JOHN M. GUALTIERI of Canton, Massachusetts**

Subject Property: **45 Maple Street, Teaticket, Massachusetts
Map 46A, Section 23, Parcel 000, Lot 083**

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

RECEIVED

MAR - 6 2017

FALMOUTH TOWN CLERK

dated 12:15 pm

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.