

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 022-17

APPLICANT/OWNER: NANCY FEBOS SOWELL of Hatchville, Massachusetts

SUBJECT PROPERTY: 17 Strand Way, Hatchville, Massachusetts
Assessor's Map: Map 10, Section 01, Parcel 003, Lot 006

DEED/CERTIFICATE: Book 07188 / Page 318

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of April 3, 2017, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. and 240-68 D. of the Code of Falmouth to demolish the existing green house (attached to rear of dwelling) and in its place construct an addition to the dwelling with a deck above on subject property known as 17 Strand Way, Hatchville, 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 June 1, 2017.
4. The public hearing was terminated on June 1, 2017, 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 present at the hearing and 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)

E-mails from staff to and from Applicant and Architect regarding existing and proposed heights of structures

Letters/Referrals/E-mails from Town Departments

- 04/04/2017 Referral submitted to the file from the Planning Department staff with no comment
- 04/04/2017 Referral submitted to the file from Conservation Commission Agent that states: *Owner is filing an RDA for this work, likely scheduled for 4/26/17* (Note: Received Determination of Applicability for proposed project from Conservation Commission on 5/24/2017)
- 04/20/2017 Referral submitted to the file from Falmouth Fire Rescue with no comment
- 05/08/2017 Referral submitted to the file from Town Engineering Department that states: *This application was reviewed only for impacts to public right of ways and public utilities. Strand Way 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. We recommend adding dry wells, rain garden or other stormwater measure for the roof.*

Plans submitted by Applicant/Applicant's Representative

“Site Plan for Nancy Sowell 17 Strand Way Falmouth, Mass” as drawn by Warwick & Associates Inc. dated 2/21/2017 with a revised date of 04/01/2017 – plan is stamped, signed and dated by Gary S. Labrie, PLS on 04/03/2017 – Board date stamp ‘received’ on April 3, 2017;

Hand drawn existing first floor plan (1 page) with a Board date ‘received’ stamp of April 3, 2017;

Hand drawn existing and proposed second floor plan (2 pages) and proposed first floor (1 page) with a Board date ‘received’ stamp of April 24, 2017; and

“Sowell Addition” architectural plans by Chris Warner Architect consisting of three pages: ‘Existing Conditions/Demolition’ dated 3/15/17 with a Board date ‘received’ stamp of April 24, 2017; ‘Preliminary Design’ dated 3/15/17 with a Board date ‘received’ stamp of May 10, 2017; and ‘Existing and Proposed’ (floor plan) dated 3/15/17 with a Board date ‘received’ stamp April 3, 2017.

Hearing:

The Board discussed plans with applicant [Nancy Sowell]. 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 Murphy 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 17 Strand Way in Hatchville contains 20,260 square feet of Agricultural A zoned land that is located within the Great Pond Coastal Pond Overlay District, the Wildlife Corridor Overlay, the Water Resource Protection Overlay District, is partially within the Estimated and Priority Overlay of the Natural Heritage for Endangered Species Program and is located within the Zone II Overlay District. The structure has a nonconforming setback of 36.84' from the greenhouse to the waters of Deep Pond that requires a 50' setback pursuant to Section 240-68 D. of the Code of Falmouth. The applicant applied under Section(s) 240-3 C. and 240-68 D. of the Code of Falmouth to remove the existing greenhouse attached to the rear of the dwelling and in its same footprint construct an addition to the dwelling that will have a deck on its roof that will be utilized by the upstairs bedroom. The plans show that there are two (2) existing bedrooms (one on first floor and one on second floor), and a study and a den on the first floor as well. The addition on the first level (replacing greenhouse) will be to increase the living room area. There is no change in the number of bedrooms on subject property – count will remain at two (2).

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 removal of the green house and an addition constructed in its location to increase the living room within the pre-existing nonconforming dwelling will not be substantially more detrimental than what currently exists. The Board further finds that the proposed addition will not increase the existing nonconforming setback to the waters of Deep Pond and will not create any other nonconforming setback. Furthermore, the Board finds that the proposed addition will enhance the utilization of living space for the resident.

The Board finds that lot coverage by structures will be slightly increased from 9.0% to 9.3% on subject property, which is still well below the maximum percentage allowed in the zoning district pursuant to Section 240-69 A. of the Code of Falmouth. The Board further finds through testimony by the applicant that there are gardens at the rear façade of the dwelling to absorb roof runoff and there are gutters on the dwelling; testimony was there have been no issues with runoff and the proposed project does not change the existing conditions and only minimally increases lot coverage.

The Board finds that the proposed addition will be constructed on sonotubes and will not require excavation for a foundation.

In addition to the above findings, the Board finds that the proposed addition increasing the living room space 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 there is no increase to the existing nonconforming setback to the waters of Deep Pond, there are no new noncomplying setbacks

created and lot coverage on subject property is well below the maximum allowed in the Code of Falmouth.

B. The site is suitable for the proposed use as the property is used as a single-family dwelling and will continue to be maintained as a single-family dwelling 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 unchanged as the addition is at the rear of the dwelling and not seen from any roadway; and there is no impact on any view or vista from the roadway or abutting properties.

E. The sewage disposal system will be unaffected by this approval as it does not include the addition of alteration to create a bedroom. Bedroom count remains at two within the dwelling.

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.

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 existing 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 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 Nancy Febos Sowell (herein referred to as Applicant) under Section(s) 240-3 C. and 240-68 D. of the Code of Falmouth to demolish the existing green house (attached to rear of dwelling) and in its place construct an addition to the dwelling with a deck above on subject property known as 17 Strand Way, Hatchville, Massachusetts. This special permit is subject to the following conditions:

1. The demolition of greenhouse, construction of addition to the living room, all setbacks, lot coverage 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:
 - “Site Plan for Nancy Sowell 17 Strand Way Falmouth, Mass” as drawn by Warwick & Associates Inc. dated 2/21/2017 with a revised date of 04/01/2017 – plan is stamped,

signed and dated by Gary S. Labrie, PLS on 04/03/2017 – Board date stamp ‘received’ on April 3, 2017;

- Hand drawn existing first floor plan (1 page) with a Board date ‘received’ stamp of April 3, 2017;
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2. No more than two (2) bedrooms shall be 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. The Applicant shall meet the requirements of the DPW Water Division.
 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 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:

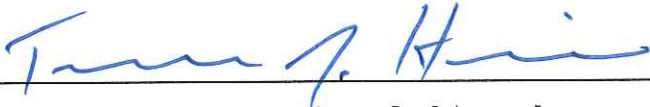
Special Permit Number: **022-17**

Applicant: **NANCY FEBOS SOWELL of Hatchville, MA**

Subject Property: **17 Strand Way, Hatchville, MA
Map 10, Section 01, Parcel 003, Lot 006**

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

JUN - 7 2017

FALMOUTH TOWN CLERK

dd @ 10:50am
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.