

**FALMOUTH ZONING BOARD OF APPEALS**

**FINDINGS AND DECISION**

**SPECIAL PERMIT NO:** 052-17

**APPLICANT/OWNER:** LAWRENCE A. BACKMAN, TRUSTEE of Lawrence A. Backman Trust of Teaticket, MA

**SUBJECT PROPERTY:** 66 Reynolds Street, Teaticket, Massachusetts  
**Assessor's Map:** Map 39A, Section 05, Parcel 000, Lot 124

**DEED/CERTIFICATE:** Book 28581 / Page 245

**SUMMARY:** Special Permit Granted with Conditions

**PROCEDURAL HISTORY**

1. Under a date of June 21, 2017, 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 create habitable space within the existing garage and construct small additions to the footprint of the pre-existing nonconforming single-family dwelling on subject property known as 66 Reynolds 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 July 20, 2017.
4. The public hearing was terminated on July 20, 2017, wherein the Board consisting of Chairman Kenneth Foreman, Vice Chairman Terrence Hurrie, Acting Clerk Paul Murphy, Member Ed Van Keuren and Associate Gerald Potamis (sitting as voting member) made a decision to Grant the Special Permit with conditions. Minutes of the hearing(s) are on file in the Board of Appeals.
5. The applicant was represented at the hearing by Christian Valle of The Valle Group, 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)**

06/21/2017 Christian Valle submitted, on behalf of the applicant, a completed application with plans

### Letters/Referrals/E-mails from Town Departments

- 06/22/2017 Referral submitted to the file from the Planning Department staff with no comment
- 06/27/2017 Referral submitted to the file from the Falmouth Fire Rescue Department with no comment
- 06/28/2017 Referral submitted to the file from the Director of Assessing that states: *Includes Lots 124, 125 and 126*
- 07/11/2017 Referral submitted to the file from Town Engineering Department with standard comments
- 07/18/2017 Referral submitted to the file from Conservation Commission states: *Contain stormwater on the property by installing gutters with drywells and/or trench drain in driveway*

### Plans submitted by Applicant/Applicant's Representative

“Certified Plan” – Sheet 1 - drawn by Eastbound Land Surveying, Inc. for #66 Reynolds St. Falmouth, MA – plan is stamped, signed and dated by Robb Sykes, P.L.S. on 5/24/2017 – plan has a Board date ‘received’ stamp of June 20, 2017;

“Area Calculation Detail” – Sheet 2 - drawn by Eastbound Land Surveying, Inc. for #66 Reynolds St. Falmouth, MA – plan is stamped, signed and dated by Robb Sykes, P.L.S. on 5/24/2017 – plan has a Board date ‘received’ stamp of June 20, 2017;

“Backman/Hoffman Residence 66 Reynolds Street, Falmouth, MA” – Drawing A 03B ‘Existing and Proposed Second Floor Plan’ drawn by AAM Architecture & Design dated 6/11/2017 with a Board date ‘received’ stamp of June 23, 2017; and

“Proposed New Construction Backman/Hoffman Residence 66 Reynolds Street, Falmouth, MA” as drawn by AAM Architecture & Design, consisting of Drawing A ‘Cover’, Drawing A-00 ‘Existing and New Footprint Plan’, Drawing A-01 ‘Proposed Front and Rear Elevations’, Drawing A-02 ‘Proposed Right and Left Elevations’, Drawing A-03 ‘Proposed First Floor’, Drawing A-04 ‘Proposed Section at Master Bedroom’, Drawing A-05 ‘Proposed First Floor Foundation/Framing Plan’, Drawing A-06 ‘Proposed Roof Framing’, Drawing A-07 Existing Rear and Front Elevation Demolition Plan’, Drawing A-08 ‘Existing Right and Left Elevation Demolition Plan’, Drawing A-09 ‘Existing First Floor Plan and Drawing A-10 ‘Proposed Perspective Views’ – all dated 6/11/2017 and with a Board date ‘received’ stamp of June 21, 2017.

#### Hearing:

Christian Valle explained that the property is pre-existing nonconforming due to a front yard setback from the dwelling to the property line off Reynolds Street of 20’11” that requires a 25’ setback. The existing garage structure will be renovated to create a new master bedroom and bath. There are four (4) bedrooms existing on the second floor of the dwelling, one of the bedrooms will be relocated as the new

master bedroom and bath and the room on the second floor (designated as relocated) will become a 'study room' with a cased opening so as not to meet the criteria of a bedroom. The gap at the front and rear of the dwelling where it meets the garage will be filled in; the rear space will be used to create a bathroom for master bedroom, and the front area will be to add to space that will create an office area within the master bedroom. The deck at the northeast corner of the dwelling will be removed and a small landing will be added to the doorway at that corner. The lot coverage on subject property by structures is nonconforming at 28.6%, however, with the removal of the deck and the minor additions, the lot coverage by structures will be reduced to 26.4%. The dwelling will remain a four-bedroom dwelling. The existing shed will remain.

The Board discussed plans with Mr. Valle and asked what the basement consists of. Mr. Valle stated that the basement has a workshop in it, but no bedrooms. All Board's 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 5 – 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 66 Reynolds Street contains 7,200 square feet of Residential C zoned land that is located within the Great Pond Coastal Pond Overlay District and the Search and Rescue Overlay District. The applicant applied under Section(s) 240-3 C. of the Code of Falmouth to convert existing attached garage into a master bedroom and bathroom, to remove existing deck at the northeast corner of the dwelling and add a landing to access door and to construct two (2) small additions between garage and dwelling on the north and south façade of the said dwelling to create added area for master bedroom and bathroom space. The dwelling structure has an existing nonconforming front yard setback of 20'11" which will remain the same; the proposed additions will be in compliance with setbacks pursuant to Sections 240-68 A. and B. of the Code of Falmouth. The lot coverage by structures is nonconforming at 28.6% as it exceeds the 20% by right and 25% by special permit under Sections 240-69 A. and E. of the Code of Falmouth. In 2002 the lot coverage by structures was allowed at 35% and in 2003 a Town Meeting vote decreased the by right to 20% thus making the lot coverage on subject property nonconforming. There are four (4) bedrooms within the existing dwelling and there will remain four (4) bedrooms through this special permit. The dwelling will be renovated to relocate one bedroom from the second floor to the garage space that will be converted to a master bedroom and bathroom; the vacated bedroom on the second floor will become a 'study' with a cased opening.

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 renovations, removal of the existing deck and small additions as shown on the plans proposed for the pre-existing nonconforming dwelling will not be substantially more detrimental than what currently exists. The Board further finds that the nonconforming front setback to Reynolds Street will remain as existing and with the proposed removal of the existing deck on the northeast corner of the dwelling, the lot coverage by structures will be improved from 28.6% to 26.4%. Furthermore, the Board finds that the proposed relocation of a master bedroom to the first floor (garage conversion) will enhance the utilization of the dwelling by its residents.

The Board finds that the proposed will not create any new nonconformities on subject property. The Board finds that the shed will remain on subject property to allow storage as the existing garage that may have been utilized for some storage will be converted to a bedroom through this special permit.

The Board finds that the subject property is on Town sewer and will be limited to four (4) bedrooms, which is what is existing. The Board further finds through testimony by the applicant's representative that a workshop is located in the basement space and there is no bedrooms existing in said basement and with no intent to create a bedroom.

In addition to the above findings, the Board finds that the proposed 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 conversion of an existing garage to a master bedroom and bathroom and small additions as the applicant, through the proposed plans, has reduced the nonconforming lot coverage to a less nonconforming percentage and the proposed plans will not create any new nonconformities.
- B. The site is suitable for the proposed use as the property is zoned residential and will 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 slightly changed but 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 and limited to a four (4) bedroom capacity.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site.
- G. The proposed additions 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 garage conversion and small additions to the pre-existing nonconforming single-family dwelling 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 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 Lawrence A. Backman, Trustee (herein referred to as Applicant) under Section(s) 240-3 C. of the Code of Falmouth to create habitable space within the existing garage and construct small additions to the footprint of the pre-existing nonconforming single-family dwelling on subject property known as 66 Reynolds Street, Teaticket, MA. This special permit shall be subject to the following conditions:

1. The removal of the existing deck noted herein, the conversion of the garage space, the small additions proposed, setbacks, lot coverage and use of the single-family dwelling shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
  - “Certified Plan” – Sheet 1 - drawn by Eastbound Land Surveying, Inc. for #66 Reynolds St. Falmouth, MA – plan is stamped, signed and dated by Robb Sykes, P.L.S. on 5/24/2017 – plan has a Board date ‘received’ stamp of June 20, 2017;
  - “Area Calculation Detail” – Sheet 2 - drawn by Eastbound Land Surveying, Inc. for #66 Reynolds St. Falmouth, MA – plan is stamped, signed and dated by Robb Sykes, P.L.S. on 5/24/2017 – plan has a Board date ‘received’ stamp of June 20, 2017;
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  - “Proposed New Construction Backman/Hoffman Residence 66 Reynolds Street, Falmouth, MA” as drawn by AAM Architecture & Design, consisting of Drawing A ‘Cover’, Drawing A-00 ‘Existing and New Footprint Plan’, Drawing A-01 ‘Proposed Front and Rear Elevations’, Drawing A-02 ‘Proposed Right and Left Elevations’, Drawing A-03 ‘Proposed First Floor’, Drawing A-04 ‘Proposed Section at Master Bedroom’, Drawing A-05 ‘Proposed First Floor Foundation/Framing Plan’, Drawing A-06 ‘Proposed Roof Framing’, Drawing A-07 Existing Rear and Front Elevation Demolition Plan’, Drawing A-08 ‘Existing Right and Left Elevation Demolition Plan’, Drawing A-09 ‘Existing First Floor Plan and Drawing A-10 ‘Proposed Perspective Views’ – all dated 6/11/2017 and with a Board date ‘received’ stamp of June 21, 2017.
2. There shall be no more than four (4) bedrooms allowed on subject property.
3. There shall be no bedrooms or sleeping accommodations created within the basement space of subject dwelling.

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: **052-17**

Applicant: **LAWRENCE A. BACKMAN, TRUSTEE of Lawrence A. Backman Trust  
of Teaticket, MA**

Subject Property: 66 Reynolds Street, Teaticket, Massachusetts  
Assessor's Map: Map 39A, Section 05, Parcel 000, Lot 124

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, Vice Chairman, Board of Appeals**

RECEIVED

JUL 31 2017

FALMOUTH TOWN CLERK

*AD@12:32pm*

**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.