

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 055-17

APPLICANT/OWNER: ANN GIFFORD MORRIS of Woods Hole, MA

SUBJECT PROPERTY: 45 Quissett Avenue, Woods Hole, Massachusetts
Assessor's Map: Map 49A, Section 03, Parcel 019, Lot 001D

DEED/CERTIFICATE: Certificate #162142 – LC Plan 7064-0, Lot D-1

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of June 28, 2017, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. and 240-68 B. of the Code of Falmouth to construct an addition that will increase existing kitchen and create habitable space within the pre-existing nonconforming single-family dwelling on subject property known as 45 Quissett Avenue, Woods Hole, 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 August 10, 2017.
4. The public hearing was terminated on August 10, 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 Thomas J. Bunker, P.L.S. with BSS Design, Inc., 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)

06/29/2017 E-mail from Thomas Bunker, responding to ZBA staff question, regarding use of basement as a workshop, garage, utilities and storage

Letters/Referrals/E-mails from Town Departments

07/03/2017 Referral submitted to the file from Falmouth Fire Rescue Department with no comment

07/03/2017 Referral submitted to the file from Planning Department staff with no comment

07/11/2017 Referral submitted to the file from Town Engineering Department with standard comments and a recommendation that the house number be clearly posted out at the street due to the setback of this home.

07/06/2017 Referral submitted to the file from Director of Assessing with no comment

07/18/2017 Referral submitted to the file from Conservation Commission that states: *Notice of Intent filing shall be heard by ConCom on 8/2/2017*

Plans submitted by Applicant/Applicant's Representative

“Plot Plan – Proposed Addition” prepared for Robert and Ann Morris 45 Quissett Avenue Woos Hole, Massachusetts as drawn by BSS Design, Inc. on a plan dated June 26, 2017 – stamped and signed by Thomas J. Bunker, P.L.S. and with a Board date ‘received’ stamp of June 28, 2017; and

“Addition/Renovation Design Morris Residence 45 Quissett Ave. Woods Hole Falmouth, MA” drawn by Architecture by SPB consisting of Drawing A1 showing proposed Elevations, Drawing A2 showing Existing and Proposed First and Second Floor Plan and Drawing S1 showing proposed Foundation – all Drawings dated 6/15/2017 and with a Board date ‘received’ stamp of June 28, 2017.

Hearing:

Thomas Bunker reviewed the existing site that abuts the Woods Hole Golf Club and consists of 16, 899 square feet. The dwelling structure has a nonconforming setback of 4.6’ to the northerly side yard property line that requires a 10’ setback. The applicant is proposing to construct an addition to the kitchen that is currently 12.5’ x 12’ and making it 12.5’ x 26’ (14’ extension). The addition will be two-stories (increasing the roof height over the existing kitchen) so that one of the existing bedrooms can be relocated to the new space created on the second floor for a new master bedroom, bathroom and laundry room. The space vacated on the second floor (previous bedroom) will then be used as an office that will have a 5’ cased opening. There are three (3) bedrooms existing and three (3) bedrooms will remain through the construction of the addition with no increase to the bedroom count. The lot coverage will remain in compliance and well below the maximum percentage allowed by right. The dwelling is within 100 feet of a wetland so we are required to go before Conservation Commission. The Conservation Commission had to change the date of our meeting to August 16, 2017 so currently there is not an

approval by the Commission. Mr. Bunker stated he has spoken with the Conservation Commission Administrator who thought it might be approvable.

The Board discussed plans with Mr. Bunker. 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 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 45 Quissett Avenue in Woods Hole contains 16,899 square feet of Residential C zoned land that is not located within any overlay district. The dwelling on subject property is approximately 59' from a wetland at the rear of said property and within the Conservation Commission jurisdiction. The applicant is awaiting a hearing with Conservation at the time of this hearing. The dwelling on subject property has a nonconforming setback of 4.6' to the northerly side yard property line that requires a 10' setback pursuant to Section 240-68 B. of the Code of Falmouth. The applicant applied under Section(s) 240-3 C. (pre-existing nonconforming) and Section 240-68 B (side/rear setback requirement) of the Code of Falmouth to construct an addition to the southwesterly corner of the existing dwelling. The addition will increase the existing kitchen area on the first floor, and will create a second floor above the kitchen to create a master bedroom, bathroom and laundry room. One of the three (3) existing bedrooms on the second floor will become an office with a 5' cased opening so that the master bedroom can be created without increasing the number of bedrooms beyond the three (3) existing. The plan shows drywells being installed to maintain stormwater runoff on site. The lot coverage by structures and by structures, parking and paving will remain in compliance with Section 240-69 A. of the Code of Falmouth.

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 addition to the pre-existing nonconforming single-family dwelling will not be substantially more detrimental than what currently exists and will be an enhancement to the utilization of habitable space for the residents of subject property. The Board further finds that the addition will not create any new nonconformities under Sections 240-68 A., 240-68 B. or 240-69 A. of the Code of Falmouth.

The Board finds that the height of the proposed addition will be in compliance with Section 240-70 of the Code of Falmouth and will be in keeping with the existing roof height. The Board further finds that the Board of Health will review the proposed plans for any possible update of the existing cesspools to

Title V through this special permit. The review by the Board of Health will be done prior to the issuance of a building permit for this addition. The Board further finds that the number of bedrooms (three existing) will not be increased through this special permit approval and that the one (1) vacated bedroom on the second floor to allow for a new master bedroom will be utilized as an office as shown on the plans with a 5' cased opening so as not to meet the criteria of a fourth (4th) bedroom.

Section 240-68 B. of the Code of Falmouth requires a rear and side yard setbacks to be no less than 10' from a principal structure (dwelling). The Board finds that the existing 4.6' setback to the northerly side yard property line is pre-existing and will not be increased through this special permit.

The Board finds through testimony by the applicant's representative, as well as a referral from Conservation Commission that the applicant has applied to the Conservation Commission. The Board further finds that the Commission has not yet approved the project to date.

In addition to the above findings, the Board finds that the proposed addition to the existing single-family dwelling 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 will be no increase in the existing nonconforming setback at the side yard property line, there are no new nonconforming setbacks and the lot coverage will remain in compliance with Section 240-69 A. through this special permit approval.

B. The site is suitable for the proposed use as the property is zoned residential and the existing single-family dwelling will be maintained as such through this 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 will be at the rear of the dwelling and not seen from the roadway; and there will be no impact on any view or vista from the roadway or abutting properties.

E. The sewage disposal system will be reviewed by the Board of Health prior to issuance of a building permit for the addition represented herein.

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 service as the Board of Appeals did not receive a referral from the Water Department regarding the addition discussed and approved herein.

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 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 Potamis 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 Ann Gifford Morris (herein referred to as Applicant) under Section(s) 240-3 C. and 240-68 B. of the Code of Falmouth to construct an addition that will increase existing kitchen and create habitable space within the pre-existing nonconforming single-family dwelling on subject property known as 45 Quisset Avenue, Woods Hole, MA. This special permit shall be subject to the following conditions:

1. The construct of the addition, all setbacks, lot coverage, height of addition and use of habitable space within the dwelling shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
 - “Plot Plan – Proposed Addition” prepared for Robert and Ann Morris 45 Quisset Avenue Woods Hole, Massachusetts as drawn by BSS Design, Inc. on a plan dated June 26, 2017 – stamped and signed by Thomas J. Bunker, P.L.S. and with a Board date ‘received’ stamp of June 28, 2017; and
 - “Addition/Renovation Design Morris Residence 45 Quisset Ave. Woods Hole Falmouth, MA” drawn by Architecture by SPB consisting of Drawing A1 showing proposed Elevations, Drawing A2 showing Existing and Proposed First and Second Floor Plan and Drawing S1 showing proposed Foundation – all Drawings dated 6/15/2017 and with a Board date ‘received’ stamp of June 28, 2017.
2. There shall be no more than three (3) bedrooms allowed on subject property.
3. This Special Permit shall be contingent upon the applicant receiving approval from the Conservation Commission. The approval by the Conservation Commission shall be adopted by the Board of Appeals and become a part of this Decision.
4. The proposed office space shown on Sheet A2 of the architectural plans noted in Condition 1 above shall maintain at all times the 5’ cased opening to insure that said space will not meet the criteria of a bedroom.
5. 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.
6. The Applicant shall meet the requirements of the DPW Water Division.
7. 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.)

8. 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: 055-17

Applicant: ANN GIFFORD MORRIS of Woods Hole, Massachusetts

Subject Property: 45 Quissett Avenue, Woods Hole, Massachusetts
Map 49A, Section 03, Parcel 019, Lot 001D

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

AUG 18 2017

FALMOUTH TOWN CLERK



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.