

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 070-16

APPLICANT/OWNER(S): RALPH HERBST, TRUSTEE of East Falmouth, MA

SUBJECT PROPERTY: 121 Regis Road, East Falmouth, Massachusetts
Assessor's Map: Map 09, Section 01, Parcel 004, Lot 268

DEED/CERTIFICATE: Certificate 177357 – Lot 268 and 269, Plan 16583-O (Sheet 6)

SUMMARY: Removal of Special Permit #070-16

PROCEDURAL HISTORY

1. Under a date of June 17, 2016, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-38 I. of the Code of Falmouth to allow for an accessory apartment within the single-family dwelling on subject property known as 121 Regis Road, East Falmouth, MA.
2. A duly advertised public hearing was opened on July 14, 2016 and said public hearing was terminated on July 14, 2016, wherein the Board made a decision to Grant the Special Permit with conditions based on the criteria of said bylaw.
3. In April of 2017, Town Meeting voted Article 7 (Annual Town Meeting – approved by Attorney General in June of 2017) to allow an accessory apartment as a by-right use, without affordable restrictions, if it is constructed within or attached to a single-family dwelling on the same property.
4. On June 26, 2017 Mr. Herbst (Applicant) requested, in writing, that the Board of Appeals remove the Special Permit #070-16 and conditions relative to the accessory apartment from subject property known as 121 Regis Road in East Falmouth.
5. The new bylaw and the criteria for an accessory apartment approved by Town Meeting in April of 2017 replaces bylaw Sections 240-23 I. and 240-38 I. in its entirety, which had previously required a special permit and allowed the accessory apartment contingent upon certain conditions.
6. Therefore, Special Permit (#070-16), which allowed the accessory apartment now existing, subject to certain conditions set forth in said decision of special permit, is no longer required in the Code of Falmouth (Sections 240-23 I. and 240-38 I. – Zoning Bylaws) for subject property.
7. Notwithstanding the foregoing, the accessory apartment approved in #070-16 shall be maintained in accordance with the new bylaw (Section 240-38 I.) as voted at Town Meeting in April of 2017 and approved by the Attorney General on June 14, 2017.

- 8. The dissolution of Special Permit #070-16 as set forth herein, is not intended to, and does not eliminate any obligation of the Applicant to comply with any approval requirements of the new bylaw that may be applicable as of the date hereof, or which may become applicable in the future, including, but not limited to, the receipt of site plan approval from the Planning Board.

At an open meeting of the Board of Appeals held on September 14, 2017, the Board voted unanimously to allow the dissolution of Special Permit #070-16 based on the new bylaw (Section 240-38 I.) approved by Town Meeting vote in April of 2017.



Terrence J. Hurrie, Vice Chairman, Board of Appeals

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SEP 19 2017

FALMOUTH TOWN CLERK



Date Filed With Town Clerk