

**FALMOUTH ZONING BOARD OF APPEALS  
FINDINGS AND DECISION**

**SPECIAL PERMIT NO:** 058-17

**APPLICANT/OWNER:** JAYME J. YELLIN and JONATHAN D. YELLIN of Needham, MA

**SUBJECT PROPERTY:** 19 Harbor Hill Road, Woods Hole, Massachusetts  
**Assessor's Map:** Map 51, Section 05, Parcel 000, Lot 028

**DEED/CERTIFICATE:** Book 48900 / Page 6500

**SUMMARY:** Special Permit Granted with Conditions

**PROCEDURAL HISTORY**

1. Under a date of July 15, 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 demolish existing attached garage and construct a sunroom in its place and construct a partial 2<sup>nd</sup> floor addition to the pre-existing nonconforming single-family dwelling on subject property known as 19 Harbor Hill Road, 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 September 14, 2017.
4. The public hearing was terminated on September 14, 2017, wherein the Board consisting of Chairman Kenneth Foreman, Vice Chairman Terrence Hurrie, Clerk Kimberly Bielan, Member Ed Van Keuren and Member Paul Murphy 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 Chris Harris of Salt Architecture, 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**

09/11/2017 Letter submitted to the file by Nicole and Jonathan Goldman of 12 Sidney Street stating concerns and comments regarding proposed application

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

08/04/2017 E-mail communication from Representative Harris to Zoning Administrator regarding Board of Health Referral

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

- 07/20/2017 Referral submitted to the file from Planning Department staff with no comment
- 07/24/2017 Referral submitted to the file from Board of Health Agent – Referral was revised via e-mail dated August 31, 2017 and received on 9/1/2017 that states: *The proposed septic system meets the requirements of Title 5.*
- 07/25/2017 Referral submitted to the file from the Director of Assessing with no comment
- 07/27/2017 Referral submitted to the file by Conservation Commission that states contain runoff on to property
- 08/21/2017 Referral submitted to the file from Town Engineering Department with standard comments and a request to have applicant clearly post house number visible from the street

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

“Plot Plan – Proposed Additions and Subsurface Sewage Disposal System Expansion” prepared for Jonathan Yellin 19 Harbor Hill Road Woods Hole, Massachusetts as drawn by BSS Design Inc. dated July 18, 2017 – plan is stamped and signed by Jeffrey E. Ryther, P.E. and Thomas Jackson Bunker, P.L.S. and with a Board date ‘received’ stamp of July 19, 2017;

“Plot Plan – Existing House and Subsurface Sewage Disposal System Expansion” prepared for Jonathan Yellin 19 Harbor Hill Road Woods Hole, Massachusetts as drawn by BSS Design Inc. dated July 18, 2017 – plan is stamped and signed by Jeffrey E. Ryther, P.E. with a Board date ‘received’ stamp of July 21, 2017; and

“Yellin Residence Woods Hole, MA” architectural plans drawn by Salt Architecture consisting of Drawings: A010 ‘First Floor Plan-Existing’, A011 ‘Exterior Elevations-Existing’, A100 ‘Floor Plans-Basement’, A101 ‘Floor Plan-First Floor-Proposed’, A102 ‘Floor Plan – Section Floor-Proposed’, A200 ‘Exterior Elevations’ and A201 ‘Exterior Elevations’ – all Drawings have a ‘ZBA Submission’ date of 7/18/2017 and a Board date ‘received’ stamp of July 19, 2017.

#### Hearing:

Representative and project Architect, Chris Harris, reviewed the existing site and proposed additions that are shown on the plan submitted. The plan is to demolish the existing attached garage to foundation and replace with a sunroom and construct a partial second floor addition over the southerly side of the existing one-story dwelling. The second floor addition will create area for a new master bedroom with office space pass-through. Two of the existing three bedrooms located on the first floor will be removed – one will become a new entry into the dwelling and one will become a larger bathroom attached to the one bedroom remaining, making it a master bedroom and bathroom as well as the new one on second

level proposed. The proposed height of the dwelling will be 33'6". There will be a new stairway created at the northwesterly corner of the dwelling (next to proposed sunroom proposed) for access to the basement. The basement is currently unfinished and will be renovated to create a family room, a third bedroom and full bathroom, laundry room, room for mechanical utilities as well as a storage area. The bedroom in the basement will have an egress well that will be constructed per fire/safety codes. The plans also include removing the existing entry and creating a new entry slightly more easterly on the front façade of the dwelling. The total square footage of the dwelling will be increased from 1,300 square feet to 2,200 square feet.

The Board discussed plans with Chris Harris. All concerns and questions were addressed.

Chairman Foreman asked for any public comment in support or opposition of the proposed project.

Nicole Goldman of 12 Sidney Street, stated concerns about construction of additional living space and opposition to landscaping that is being conducted and proposed. Ms. Goldman suggested conditions of construction times and parking of vehicles – she submitted a letter to the file on 9/11/2017.

Thomas Moseley, 9 Strawberry Hill Road, stated concerns about removal of existing plantings and the 'warning' light on subject dwelling that will shine onto his property – he suggested buffering of subject property is important to the neighborhood.

Nicole Goldman spoke about dust being created through the laying of gravel driveway just created.

Chris Harris spoke on the existing plantings on subject property and stated that the property has been overgrown for approximately 20 years and that the applicant is trying to create a nice yard and environment for the family. Mr. Harris stated that the applicants will be amenable to reasonable construction hours restrictions and noted that there is limited parking on site – possibly two spaces and that Harbor Hill Road is narrow for parking of vehicles.

The Board discussed that the plan shows that Harbor Hill Road is a 40' road layout with only about an 18' swath of pavement down it. Suggested applicant stake the side of the road layout in front of subject property to see area left that is not paved that may allow parking so as not to be on paved roadway. Mr. Harris was amenable to this suggestion.

Member Van Keuren made a motion to close the hearing. Member Bielan 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 19 Harbor Hill Road contains 11,205 square feet of Residential C zoned land that is not located within any overlay district. The applicant applied under Section(s) 240-3 C. of the Code of Falmouth to demolish existing attached garage and construct a sunroom in its place and

construct a partial 2<sup>nd</sup> floor addition to the pre-existing nonconforming single-family dwelling on subject property. The pre-existing nonconforming single-family dwelling has a nonconforming 7'1" setback from the existing attached garage structure to the northerly side yard property line that requires a 10' setback pursuant to Section 240-68 B. of the Code of Falmouth. The nonconforming setback will remain the same as the garage will be demolished but the applicant will be using the foundation to construct the sunroom and storage space that will replace said garage. Lot coverage on subject property existing and proposed will remain below the maximum percentage allowed in this residential district pursuant to Section 240-69 A. of the Code of Falmouth. The bedroom count exists at three (3) bedrooms on subject property and will remain a three (3) bedroom count through the proposed. It was noted during the hearing process that the applicant has started landscaping plans for subject property. The proposed height of the structure at 33'6" is below the 35' maximum allowed in Section 240-70 of the Code of Falmouth – the proposed second story only covers a portion of the first story.

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 renovation and addition to the pre-existing nonconforming dwelling will not be substantially more detrimental than what currently exists. The Board further finds that the proposed will not increase the one existing nonconforming setback, nor create any new nonconforming setbacks or lot coverage percentage. Furthermore, the Board finds that the increase through the partial second story addition is minimal and will increase and improve the utilization of the dwelling for all its residents.

The Board finds that the existing basement is unfinished and the plans show creating habitable space in the basement through this special permit which will include in said space a family room, full bathroom, one (1) bedroom, storage space, laundry facilities and mechanical room.

The Board finds that the proposed sunroom will be constructed on the existing foundation that currently carries a detached garage and that due to the use of the existing foundation, the nonconforming 7'1" setback to the northerly side yard property line will remain the same. The Board finds that the proposed height of the addition of second floor is below the maximum height of a dwelling structure under Section 240-70 of the Code of Falmouth.

The Board finds through the applicant's representative that the applicant will be amenable to limited hours of construction on site. The Board further find through the applicant's representative that all efforts will be made to create parking on subject property for contractors while working on site and will not have laborers/contractors equipment or vehicles parked on the paved area of the roadway.

The Board finds through testimony by an abutter that the 'warning/sensor' lights on subject property shine onto abutters' property. The Board further finds that the applicant shall endeavor to keep all lighting on subject property to be low level lighting and not impact abutting neighbors.

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 additional increase to the footprint through a new front entry proposed and stairs to basement on rear of dwelling as the additions will not increase the existing nonconforming setback and they will not create any new nonconforming setback, and lot coverage will be in compliance through this special permit.

B. The site is suitable for the proposed use as the property is zoned residential and the subject property will continue to be used as a single-family residence 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 improved and there does not appear to be any impact on the neighborhood's visual character; and there is no impact on any view or vista from the roadway or abutting properties.

E. The sewage disposal system shown on the plans submitted as proposed is a four (4) bedroom system and will require approval by the Board of Health prior to the issuance of a building permit. The note from the Board of Health Agent states that the office within a proposed bedroom meets the criteria of a bedroom – however this is a pass through room (according to plans submitted) and may not meet the criteria of a fourth bedroom. The plans submitted and show, and the applicant's representative stated, that the proposed changes create a three-bedroom dwelling. Note: It is unknown if there is a garbage disposal proposed in the kitchen.

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.

G. The proposed dwelling addition and renovation 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 additions and renovations to the existing 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 Bielan 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 Jayme J. Yellin and Jonathan D. Yellin (herein referred to as Applicant) under Section(s) 240-3 C. of the Code of Falmouth to demolish existing attached garage and construct a sunroom in its place and construct a partial 2nd floor addition to the pre-existing nonconforming single-family dwelling on subject property known as 19 Harbor Hill Road, Woods Hole, MA. This special permit shall be subject to the following conditions:

1. The demolition of existing attached garage to foundation, construction of sunroom on foundation where garage previously was located, addition to second floor, new entry area, new exterior stairs to basement, floor plans, height of second story and use of 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 Additions and Subsurface Sewage Disposal System Expansion” prepared for Jonathan Yellin 19 Harbor Hill Road Woods Hole, Massachusetts as drawn by BSS Design Inc. dated July 18, 2017 – plan is stamped and signed by Jeffrey E. Ryther, P.E. and Thomas Jackson Bunker, P.L.S. and with a Board date ‘received’ stamp of July 19, 2017;
  - “Plot Plan – Existing House and Subsurface Sewage Disposal System Expansion” prepared for Jonathan Yellin 19 Harbor Hill Road Woods Hole, Massachusetts as drawn by BSS Design Inc. dated July 18, 2017 – plan is stamped and signed by Jeffrey E. Ryther, P.E. with a Board date ‘received’ stamp of July 21, 2017; and
  - “Yellin Residence Woods Hole, MA” architectural plans drawn by Salt Architecture consisting of Drawings: A010 ‘First Floor Plan-Existing’, A011 ‘Exterior Elevations-Existing’, A100 ‘Floor Plans-Basement’, A101 ‘Floor Plan-First Floor-Proposed’, A102 ‘Floor Plan – Section Floor-Proposed’, A200 ‘Exterior Elevations’ and A201 ‘Exterior Elevations’ – all Drawings have a ‘ZBA Submission’ date of 7/18/2017 and a Board date ‘received’ stamp of July 19, 2017.
2. Any exterior lighting, including any flood lights, warning lights or sensor lighting currently existing and/or installed by the applicant shall not spill onto any abutting properties. To the extent that there is any such light that spills onto an abutting property, the applicant shall install adequate measures, such as a visor, to eliminate and prevent the same.
3. There shall be no parking of any construction vehicles or construction laborers/contractors vehicles or equipment on the paved area of Harbor Hill Road. (The road layout is 40’ and paved in the middle about 18 to 20’ – there was discussion to stake road layout and see if any space available off the paved way to park so as not to affect travel on paved area.)
4. Hours of construction on subject property shall be limited to 7:00 AM to 6:00 PM Monday through Friday, 7:00 AM to 3:00 PM on Saturday and no construction on Sunday.
5. There shall be no more than three (3) bedrooms allowed on subject property. An additional bedroom will require approval by the Board of Appeals prior to creation of said room.
6. 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.
7. The Applicant shall meet the requirements of the DPW Water Division.

8. 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.)
9. 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: **058-17**

Applicant: **JAYME J. YELLIN and JONATHAN D. YELLIN of Needham, MA**

Subject Property: **19 Harbor Hill Road, Woods Hole, Massachusetts  
Map 51, Section 05, Parcel 000, Lot 028**

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.

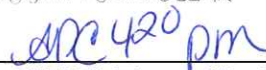


**Terrence J. Hurrie, Vice Chairman, Board of Appeals**

**RECEIVED**

**SEP 21 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.