

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 030-18
APPLICANT/OWNER: JEROME A. SHEEHAN of East Falmouth, MA
SUBJECT PROPERTY: 151 Edgewater Drive East, East Falmouth, Massachusetts
Assessor's Map: Map 32 Section 15 Parcel 000F Lot 034
DEED/CERTIFICATE: Book 22239 / Page 310
SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of April 11, 2018, 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 construct an addition creating a new bathroom and increase existing kitchen area within the pre-existing nonconforming single-family dwelling on subject property known as 151 Edgewater Drive East, East Falmouth, 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 May 17, 2018.
4. The public hearing was closed on May 17, 2018, 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 John Doyle, PE, 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

05/16/2018 Email submitted to the file by ZBA staff from Patricia McDonald of 159 Edgewater Drive East that states support of the proposed addition on subject property

05/17/2018 Email submitted to the file by ZBA staff from Steven Brill of 38 Sachem Drive stating support of the proposed addition on subject property

05/17/2018 Letter submitted to the file from Kathleen Casey of 150 Edgewater Dr. East in support

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

None

Letters/Referrals/E-mails from Town Departments

- 04/12/2018 Referral submitted to the file from Falmouth Fire Rescue Department with no comment
- 04/12/2018 Referral submitted to the file in the form of an email from Wastewater Superintendent stating no sewer on subject property
- 04/13/2018 Referral submitted to the file from Planning Department staff that has no comment
- 04/19/2018 Referral submitted to the file from Water Superintendent that states: *Property has existing water service and request does not impact water department operation*
- 04/20/2018 Referral submitted to the file from Director of Assessing with no comment
- 05/07/2018 Referral submitted to the file from Engineering Department with standard comments and notes that the project not direct any stormwater runoff to public property, abutters, or right of ways and that they recommend adding dry wells, rain garden or other stormwater measure

Note: ZBA sent Referral requests to: Assessors, Building Department, Conservation Commission, Engineering Department, Board of Health, Fire Department, Planning Department, Board of Selectmen and Water Department

Plans submitted by Applicant/Applicant's Representative

“Site Plan of Land” prepared for Jerome and Karen Sheehan showing the proposed addition as drawn by John Doyle, PLS on a plan dated March 23, 2018 – plan is stamped and signed by John P. Doyle, III, PLS and with a Board date ‘received’ stamp of April 11, 2018; and

“Addition/Renovation Design Sheehan Residence 151 Edgewater Drive East, East Falmouth, MA” as drawn by Designs by SPB consisting of Drawings A1, A2 and S1 – all dated 11/7/2017 showing proposed elevations, floor plans and framing plan – all with a Board date ‘received’ stamp of April 11, 2018.

Hearing – May 17, 2018:

John Doyle was present and reviewed the existing two-bedroom dwelling, circa 1956, that has nonconforming setbacks to both front yards off Edgewater Drive East and Sachem Drive. He then reviewed the one-story addition to increase the existing kitchen and to add a bathroom for the master bedroom. The addition meets the 10’ required side yard setback and will not increase the lot coverage

by structures beyond 20%. The dwelling will remain a two-bedroom dwelling and the shed located northwest corner of the property will remain.

The Board discussed plans with Mr. Doyle. 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 Bielan made a motion to close the hearing. Member Van Keuren 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 151 Edgewater Drive East in East Falmouth contains 8,792 square feet of Residential C zoned land that is located within the Eel Pond Coastal Pond Overlay District. The existing dwelling is a one-story, two-bedroom, one-bath structure with two front yards (Sachem Drive and Edgewater Drive East). The setbacks to both front yards from the dwelling are nonconforming as they are less than 25' pursuant to Section 240-68 A. of the Code of Falmouth; and the shed structure located at the northwest corner of the lot (approximately 147 square feet in size) has a nonconforming setback of 7' to the westerly side yard property line that requires a 10' setback. The applicant applied under Section(s) 240-3 C. of the Code of Falmouth to construct a 407 square foot addition to the northerly side of the dwelling to increase the existing garage and add a bathroom to existing bedroom creating a master suite. The addition meets the setback requirements of Section 240-68 B. of the Code of Falmouth and the lot coverage by structures is in compliance with Section 240-69 A. of the Code of Falmouth (proposed does not exceed the 20% maximum allowed by right). The dwelling will remain a two-bedroom dwelling.

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 dwelling will not be substantially more detrimental than what currently exists as there is no increase to the existing nonconforming front yard setbacks, the addition meets the 10' setback to the northerly side yard property line and the lot coverage by structures and structures, parking and paving is in compliance as noted above. The Board further finds that the increase to the kitchen area and the creation of a bathroom for existing bedroom will enhance the utilization of the dwelling for its residents. Furthermore, the Board finds that the addition will match height with the existing one-story dwelling.

The Board finds that the existing two-bedroom, one-story dwelling will remain a two-bedroom, one-story dwelling through this special permit process. The Board further finds that the foundation of the

proposed addition will have an 8' basement space that will be used for storage and not contain habitable space.

The Board finds through testimony by the applicant's representative that the applicant is amenable to putting in a drywell at downspouts off addition. The Board further finds that the shed structure located at the northwest corner of the lot will remain as existing.

In addition to the above findings, the Board finds that the proposed addition to the existing 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 represented herein as the addition will be in compliance with a side yard setback, there will be no increase to the existing nonconforming front yard setbacks and lot coverage will remain in compliance with the Code of Falmouth.

B. The site is suitable for the proposed use as the property is zoned residential and 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 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 sewage disposal system will be unaffected through this special permit approval, however, in the event of any issue regarding the system, the Board of Health is required to sign off on all building permits prior to issuance of a building permit

F. There are adequate utilities to subject property by virtue of an existing dwelling on site.

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 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 Bielan made a motion to Grant the Special Permit with conditions. Member Hurrie 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 Jerome A. Sheehan (herein referred to as Applicant) under Section(s) 240-3 C. of the Code of

Falmouth to construct an addition to the pre-existing nonconforming dwelling creating a new bathroom and increasing the kitchen space within said dwelling on subject property known as 151 Edgewater Drive East in East Falmouth, Massachusetts. This special permit shall be subject to the following conditions:

1. The one-story addition to the pre-existing nonconforming dwelling, all setbacks, lot coverage, height of addition and use of addition and dwelling shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
 - “Site Plan of Land” prepared for Jerome and Karen Sheehan showing the proposed addition as drawn by John Doyle, PLS on a plan dated March 23, 2018 – plan is stamped and signed by John P. Doyle, III, PLS and with a Board date ‘received’ stamp of April 11, 2018; and
 - “Addition/Renovation Design Sheehan Residence 151 Edgewater Drive East, East Falmouth, MA” as drawn by Designs by SPB consisting of Drawings A1, A2 and S1 – all dated 11/7/2017 showing proposed elevations, floor plans and framing plan – all with a Board date ‘received’ stamp of April 11, 2018.
2. The applicant shall submit an ‘as-built’ plan verifying setbacks and lot coverage for addition. The ‘as-built’ shall be submitted to the Board of Appeals prior to the final sign-off by the building department or Zoning Administrator and prior to occupancy of the addition.
3. The property shall have no more than two (2) bedrooms without prior approval by the Board of Appeals.
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 three (3) 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: **030-18**

Applicant: **JEROME A. SHEEHAN of East Falmouth, Massachusetts**

Subject Property: **151 Edgewater Drive East, East Falmouth, Massachusetts
Map 32 Section 15 Parcel 000F Lot 034**

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

MAY 24 2018

FALMOUTH TOWN CLERK

AD@11²⁰am

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.