

**FALMOUTH ZONING BOARD OF APPEALS**

**FINDINGS AND DECISION**

**SPECIAL PERMIT NO:** 047-18

**APPLICANT/OWNER:** KEITH H. CASPERSEN, TRUSTEE and RUTH ANNA CASPERSEN, TRUSTEE of the Keith H. Caspersen and Ruth Anna Caspersen Trust of Hatchville, MA

**SUBJECT PROPERTY:** 9 Highwood Lane, Hatchville, Massachusetts  
**Assessor's Map:** Map 12, Section 08, Parcel 029, Lot 354

**DEED/CERTIFICATE:** Book 31078 / Page 68

**SUMMARY:** Special Permit Granted with Conditions

**PROCEDURAL HISTORY**

1. Under a date of June 19, 2018, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-38 G. (1)(b) of the Code of Falmouth to construct a garage bay addition to the existing three-car garage on subject property known as 9 Highwood Lane, Hatchville, 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 2, 2018.
4. The public hearing was closed on August 2, 2018, wherein the Board consisting of Chairman Terrence Hurrie, Vice Chairman Kenneth Foreman, Acting Clerk Ed Van Keuren, Member Paul Murphy and Alternate Robert Dugan (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 Joel Kubick, PLS with Holmes and McGrath, 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**

06/25/2018 Letter submitted to the file from Joel Kubick of Holmes and McGrath, Inc. from Jack and Paulette Mara of 307 Cairn Ridge Road stating their support of the proposed garage addition

06/21/2018 Email string submitted by Joel Kubick of Holmes and McGrath, Inc. between parties of the Architectural Review Board of Ballymeade and states approval of proposed

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

06/20/2018 Email to staff from Joel Kubick of Holmes and McGrath, Inc. responding to request of height of proposed

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

06/22/2018 Referral submitted to the file from Planning Department staff with no comment

06/25/2018 Referral submitted to the file from the Town Water Department with no comment

06/27/2018 Referral submitted to the file from Director of Assessing with no comment

06/28/2018 Referral submitted to the file from Falmouth Fire Rescue Department with no comment

07/02/2018 Referral submitted to the file from Board of Health Agent with no comment

07/24/2018 Referral submitted to the file from Town Engineering Department with standard comments and a recommendation for applicant to add drywells, rain garden or other stormwater management for roof runoff

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 Proposed Garage Addition” prepared for The Keith H. Caspersen Trust Lot 354, #9 Highwood Lane in Ballymeade, Falmouth, MA as drawn by Holmes and McGrath, Inc. on Sheet 1 of 1 dated June 18, 2018 – plan is stamped and signed by Joel R. Kubick, PLS with a Board date ‘received’ stamp of June 19, 2018; and

“Proposed Garage Bay” for 9 Highwood Lane, North Falmouth, MA as drawn by JB Designs consisting of Pages 1 of 3 through 3 of 3 all dated 6/2/2018 – showing floor plans and elevations – plans have a Board date ‘received’ stamp of June 19, 2018.

Hearing:

Joel Kubick reviewed the existing site that has a two-story dwelling with a three-car garage that has habitable space above. Mr. Kubick explained that the applicant would like additional bay to store a classic car. The proposed garage bay will be one-story with no heat and no habitable space. Lot coverage will be below maximum percentage allowed by structures in the residential district.

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

Chairman Hurrie asked for any public comment in support or opposition of the proposed project. There was no public comment(s).

Member Foreman made a motion to close the hearing. Member Van Keuren seconded the motion. Motion carried 5 - 0.

Chairman Hurrie 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 9 Highwood Lane in Hatchville contains 32,849 square feet of Agricultural AA zoned land that is located within the Wildlife Life Migratory Corridor. The applicant applied under Section(s) 240-38. G. (1)(b) of the Code of Falmouth to construct a garage bay addition to the existing three-car garage located on subject property. The existing dwelling with attached garage structure is in compliance with all setbacks pursuant to Section 240-68 A. and B. of the Code of Falmouth and also meets compliance of lot coverage under Section 240-69 A. of the Code of Falmouth.

Section 240-38 G. (1)(b) of the Code of Falmouth requires relief from the Board of Appeals in the form of a Special Permit to allow garage space for more than two cars if the footprint of the garage is more than 900 square feet or 50% of the footprint of the principal structure – whichever is less.

The Board finds according to testimony by the applicant's representative that the additional garage bay will be to store a classic car in and additional storage area. The Board further finds according to testimony by the applicant that there will be no heat installed within the proposed garage bay addition. Furthermore, the Board finds that the proposed one-story garage does not appear to be adding additional bulk to the existing dwelling structure.

The Board finds that the proposed additional garage bay is approximately 273 square feet in size and the existing garage space is approximately 882 square feet which totals approximately 1,155 square feet of garage space. The Board further finds that the application is appropriately before the Board under said section.

The Board finds that the proposed one-story garage bay addition will not be totally visible from the roadway and that the nearest abutter has no objections to the proposed. The Board further finds that the applicant's representative submitted an email verifying that the Architectural Review Board of the Ballymeade Homeowner's Association approved the proposed garage bay addition as presented. In addition to the above findings, the Board finds that the proposed one-story garage bay addition to the existing garage 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 one-story garage bay addition as the addition will not create any nonconforming setback under Section 240-68 A. and B. of the Code of

Falmouth and will not increase lot coverage above the maximum percentage allowed under Section 240-69 A. of the Code of Falmouth.

B. The site is suitable for the proposed use as the property is an established residential use and the proposed garage bay addition is an acceptable accessory use to the primary use as a residence.

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 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 is unaffected by the proposed garage bay addition as it will not create any bedrooms or additional habitable space.

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

G. The proposed additional of a garage bay as 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 bay addition to existing garage structure 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 Foreman 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 Keith H. and Ruth Anna Caspersen, Trustees (herein referred to as Applicant) under Section(s) 240-38 G. (1)(b) of the Code of Falmouth to construct a one-story garage bay addition to the existing three car garage on subject property known as 9 Highwood Lane, Hatchville, Massachusetts. This special permit shall be subject to the following conditions:

1. The construction of the one-story garage bay addition, all setbacks, lot coverage, height of addition and use of the additional garage bay shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
  - "Site Plan of Proposed Garage Addition" prepared for The Keith H. Caspersen Trust Lot 354, #9 Highwood Lane in Ballymeade, Falmouth, MA as drawn by Holmes and McGrath, Inc. on Sheet 1 of 1 dated June 18, 2018 – plan is stamped and signed by Joel R. Kubick, PLS with a Board date 'received' stamp of June 19, 2018; and
  -

- “Proposed Garage Bay” for 9 Highwood Lane, North Falmouth, MA as drawn by JB Designs consisting of Pages 1 of 3 through 3 of 3 all dated 6/2/2018 – showing floor plans and elevations – plans have a Board date ‘received’ stamp of June 19, 2018.
2. There shall be no habitable space created within the proposed additional garage bay herein approved.
  3. There shall be no heat installed within the garage bay approved herein.
  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:       **047-18**

Applicant:                   **KEITH H. CASPERSEN TRUSTEE and RUTH ANNA CASPERSEN,  
TRUSTEE of the Keith H. Caspersen Trust and Ruth Anna Caspersen Trust  
of Hatchville, MA**

Owner:                       **Same**

Subject Property:       **9 Highwood Lane, Hatchville, MA  
Map 12 Section 08 Parcel 029 Lot 354**

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.

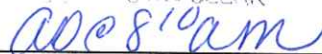


**Terrence Hurrie, Chairman, Board of Appeals**

**RECEIVED**

**AUG - 9 2013**

**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.