

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

SPECIAL PERMIT NO: 063-18

APPLICANT/OWNER: PETER STARKE and KAREN STARKE of Mansfield, MA

SUBJECT PROPERTY: 19 Commodore Lane, East Falmouth, Massachusetts
Assessor's Map: Map 40 Section 11 Parcel 020 Lot 003

DEED/CERTIFICATE: Book 30005 / Page 302

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of July 20, 2018, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-23 G. (1)(a) of the Code of Falmouth to construct a third bay addition to existing garage on subject property known as 19 Commodore Lane, 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 September 6, 2018.
4. The public hearing was closed on September 6, 2018, wherein the Board consisting of Chairman Terrence Hurrie, Clerk Kimberly Bielan, Member Paul Murphy and Associates Gerald Potamis and Robert Dugan sitting as voting members, 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 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)

09/05/2018 BSS Design, Inc. submitted a letter from the applicant dated September 2, 2018 addressed to Town of Falmouth Board of Appeals

Letters/Referrals/E-mails from Town Departments

07/24/2018 Referral submitted to the file from Falmouth Fire Rescue Department with no comment

07/23/2018 Referral submitted to the file from Planning Department staff with no comment

07/24/2018 Referral submitted to the file from Water Department with no comment

07/24/2018 Referral submitted to the file from Director of Assessing with no comment

08/03/2018 Referral submitted to the file from Board of Health Agent that states: *Proposed project = 4 bedrooms. Applicant has a 4-bedroom septic design proposed.*

08/13/2018 Referral submitted to the file from Conservation Commission with no comment

08/14/2018 Referral submitted to the file from Town Engineering Department with standard comments and the recommendation to add drywells, rain garden or other stormwater measure for additional roof area

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

“Plot Plan – Proposed Additions and Subsurface Sewage Disposal System Upgrade” as drawn by BSS Design, Inc. on a plan dated June 13, 2018 with a final revision date of July 24, 2018 – Sheet 1 of 2 ‘Site Plan’ is stamped and signed by Thomas Jackson Bunker, PLS and has a Board date ‘received’ stamp of July 26, 2018;

“Plot Plan – Proposed Additions and Subsurface Sewage Disposal System Upgrade” as drawn by BSS Design, Inc. on a plan dated June 13, 2018 – Sheet 2 of 2 ‘SSDS Profile and Details’ – plan is stamped and signed by Jeffrey Edwin Ryther, PE and has a Board date ‘received’ stamp of July 26, 2018; and

“Renovations to: Starke Residence 19 Commodore Lane East Falmouth, MA” architectural plans drawn by Giampietro Architects consisting of:

- Sheet No. T1 ‘Title Sheet’ dated 5/23/18
- Sheet No. AB1 ‘As-Built Floor Plans’ dated 5/23/18
- Sheet No. A1 ‘Elevations’ dated 5/23/18
- Sheet No. A2 ‘Floor Plans’ dated 5/23/18
- Sheet No. A3 ‘Second Floor Plan’ dated 5/23/18
- Sheet No. A4 ‘Foundation Plan & Details’ dated 5/23/18
- Sheet No. A5 ‘Sections and Details’ dated 5/23/18
- Sheet No. A6 ‘Foundation Plan’ dated 5/23/18

Note: All Plans have a Board date ‘received’ stamp of July 20, 2018.

Hearing:

Jeff Ryther, PE with BSS Design, Inc. reviewed the existing site conditions and proposed third bay to existing attached garage structure which will be constructed in compliance with all required setbacks and lot coverage. In response to the referral from engineering, Mr. Ryther stated that the applicant is amenable to adding drywells. The third bay of the garage will be to accommodate an antique/classic car. The third bay will not be finished, it will not have any heat installed and the space above the third bay will be for storage only and will be accessed by a stairway near the bay door. Russ Crawford with Giampietro Architects reviewed the proposed architectural plans,

noting the height of the proposed garage bay addition will not exceed the height of the existing dwelling and the architectural integrity will be maintained. He explained that the proposed garage bay will be stepped back 4' from existing garage to take away from bulk.

The Board discussed plans with Jeff Ryther. 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.

Member Murphy made a motion to close the hearing. Member Bielan 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 19 Commodore Lane in East Falmouth contains 20,370 square feet of Residential B zoned land. The applicant applied under Section(s) 240-23 G. (1)(a) of the Code of Falmouth to construct a third bay addition to the existing garage attached to the single-family dwelling on subject property. There are no existing nonconforming setbacks or issues with lot coverage on subject property. The proposed additional garage bay will be in compliance with all setbacks pursuant to Section(s) 240-68 A. and B. and lot coverage under Section 240-69 A. of the Code of Falmouth.

Section 240-23 of the Code of Falmouth – ‘Special permit uses.’ – Sub-section G. (1) (a) requires a special permit from the Zoning Board of Appeals to allow garage space for more than two (2) cars if the lot is 30,000 square feet or less in size.

The Board finds that the proposed addition of a third bay to the existing garage is designed to be in keeping with the existing architectural integrity, is stepped further back 4' in order to reduce the appearance of bulk and the height of the bay will not exceed the height of the existing dwelling. The Board further finds that the use of the third bay is to store a classic automobile and that the second level of the proposed bay will be for storage use only with electrical installed and no heat. Furthermore, the Board finds through testimony by the applicant's representative that there is no intent to create any habitable space within the proposed third bay and the second level of said bay.

The Board finds that the applicant agreed to add drywells to the site where proposed addition is to maintain stormwater runoff on site.

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 third bay addition to the existing garage structure as it will be in compliance with all setbacks according to Section 240-68 A. and B. of the Code of Falmouth and the lot coverage will also be in compliance under Section 240-69 A. of the Code of Falmouth.

B. The site is suitable for the proposed use as the property is zoned residential and a garage structure is an acceptable accessory to the primary and garage space for more than two (2) cars is approvable by the Board under Section 240-23 G. (1) of the Code of Falmouth.

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 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 will be unaffected through this special permit approval as there is no increase in the number of bedrooms or habitable space on subject property.

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

G. The proposed addition of a third bay to the existing garage 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 addition of a third bay to existing garage attached to the 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 Murphy 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 Peter and Karen Starke (herein referred to as Applicant) under Section(s) 240-23 G. (1) (a) of the Code of Falmouth to construct a third bay addition to the existing garage attached to the single-family dwelling on subject property known as 19 Commodore Lane, East Falmouth, Massachusetts. This special permit shall be subject to the following conditions:

1. The construction of the third bay addition, all setbacks, height of the garage bay, lot coverage and use of the third garage bay and space above 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 Upgrade" as drawn by BSS Design, Inc. on a plan dated June 13, 2018 with a final revision date of July 24, 2018 – Sheet 1 of 2 'Site Plan' is stamped and signed by Thomas Jackson Bunker, PLS and has a Board date 'received' stamp of July 26, 2018;
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Sheet No. A5 'Sections and Details' dated 5/23/18
Sheet No. A6 'Foundation Plan' dated 5/23/18

Note: All Plans have a Board date 'received' stamp of July 20, 2018.

2. There shall be no habitable space created within the proposed third bay garage and no habitable space created within the second level of the third bay garage as represented herein.
3. The applicant shall install drywells on subject property to maintain stormwater runoff due to the additional roof line created through the addition of the third garage bay. The drywells location will be at the discretion of the project engineer.
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: **063-18**

Applicant/Owner: **Peter Starke and Karen Starke of Mansfield, Massachusetts**

Subject Property: **19 Commodore Lane, East Falmouth, Massachusetts
Map 40 Section 11 Parcel 020 Lot 003**

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.

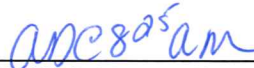


Terrence Hurrie, Chairman, Board of Appeals

RECEIVED

SEP 13 2018

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.