

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 084-18
APPLICANT/OWNER: SANDRA L. KNIGHT of Teaticket, MA
SUBJECT PROPERTY: 77 Priscilla Street, Teaticket, Massachusetts
Assessor's Map: Map 39A Section 15 Parcel 000 Lot 014
DEED/CERTIFICATE: Certificate #129311 – Lots 14 & 15 – Plan 4286A (Plate 5)
SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. Under a date of September 17, 2018, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to remove exiting deck and screened porch and replace with an addition to the pre-existing nonconforming single-family dwelling on subject property known as 77 Priscilla Street, Teaticket, Massachusetts.
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 November 1, 2018.
4. The public hearing was closed on November 1, 2018, wherein the Board consisting of Chairman Terrence Hurrie, Vice Chairman Kenneth Foreman, 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 Alan Haun of Joal Construction 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)

None

Letters/Referrals/E-mails from Town Departments

- 09/19/2018 Referral submitted to the file from Planning Department staff with no comment
- 09/20/2018 Referral submitted to the file from the Water Department with no comment
- 09/20/2018 Referral submitted to the file from Falmouth Fire Rescue Department with no comment
- 09/21/2018 Referral submitted to the file from Director of Assessing that notes property consists of Lots 14 and 15
- 10/02/2018 Referral submitted to the file from Board of Health Agent that states: *Allowed up to 4br in this (LPSSA) sewer district. Currently 2br w/a 3rd Br proposed.*
- 10/16/2018 Referral submitted to the file from Conservation Commission with no comment
- 10/23/2018 Referral submitted to the file from Town Engineering with standard comments and a recommendation to add drywells, rain garden or other stormwater measure for the roof.
- 10/23/2018 ZBA staff submitted to the file Lot Coverage / Bulk Calculations for subject property, existing and proposed, and general neighborhood 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 Addition” as drawn by Warwick & Associates, Inc. on a plan dated 05/19/2017 with a final revision date of 08/17/2018 – plan is stamped and signed by Gary S. Labrie, PLS on 09/17/2018 and has a Board date ‘received’ stamp of September 18, 2018;

“Sandra Knight 77 Priscilla St.” hand drawn plan showing existing floor plan of existing 2 bedroom dwelling with a Board date ‘received’ stamp of October 10, 2018; and

“Proposed Addition Falmouth Residence Addition 77 Priscilla St. Falmouth, MA” plans drawn by HAD consisting of Drawing A1.1 ‘First Floor’ dated 9/14/18, Drawing A1.2 ‘East and North Elevations’ dated 8/27/18 and Drawing A1.3 ‘South Elevation’ dated 9/13/18 – all Drawings have a Board date ‘received’ stamp of September 18, 2018.

Hearing:

Mr. Haun reviewed the existing site conditions showing where there is an existing deck and screened porch on the easterly side of the existing one-story, two-bedroom dwelling that will be removed in order to create a third bedroom. The property is on sewer and is allowed to go up to four (4) bedrooms, however, the applicant is looking to only add a third bedroom. The addition meets the side yard setback

but slightly increases the lot coverage by structures on the lot. The applicant is requesting to keep the shed for storage as the dwelling is small with little storage space. Mr. Haun noted that there is a basement that is unfinished and is used for mechanical and storage.

The Board discussed plans with Mr. Haun. All concerns and questions were addressed including addition of drywells on site at addition.

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

Member Bielan 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 77 Priscilla Street in Teaticket contains 4,800 square feet of Residential C zoned land that is located within the Great Pond Coastal Pond Overlay District. The applicant applied under Section(s) 240-3 C. of the Code of Falmouth (pre-existing nonconforming) to the remove the existing deck and screened porch on the east façade of the dwelling and construct a third bedroom with bath. The applicant also applied under Section 240-69 E. of the Code of Falmouth to allow the nonconforming lot coverage by structures of 23.8% to be increased to 24.7% through the proposed plan. The subject property is connected to the Town sewer and therefore is allowed four (4) bedrooms on subject property. The existing dwelling has a nonconforming setback of 19.1' to the front property line off Priscilla Street that requires a 25' setback pursuant to Section 240-68 A. of the Code of Falmouth and a nonconforming setback of 6.8' from the southeasterly corner of the dwelling to the side yard property line that requires a 10' setback under Section 240-68 B. of the Code of Falmouth. The applicant is proposing to increase the existing two-bedroom dwelling to a three-bedroom dwelling. There will be no installation of cooking facilities within addition.

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 removal of existing deck and screened porch to construct a bedroom and bath in its place will not be substantially more detrimental than what currently exists as the proposed addition will be in compliance with the side yard setback of no less than 10' pursuant to Section 240-68 B. of the Code of Falmouth and that the existing nonconforming setback at the westerly side property line and the front yard setback will not be increased through the proposed addition. The Board further finds that the addition to add a third bedroom to the pre-existing nonconforming dwelling will enhance the utilization of said dwelling by its residents. Furthermore, the Board finds through testimony that there is no intention to have cooking facilities within the bedroom addition proposed herein.

The applicant filed under Section 240-69 E. of the Code of Falmouth for relief to increase the nonconforming lot coverage by structures on subject property. The Board finds that the lot coverage by structures, including the existing shed, is pre-existing nonconforming since 2002 where Town Meeting members voted at the Annual Town meeting to decrease lot coverage by structures in a residential district from 35% to 20% and allowed the addition of 240-69 E. so that applicants could receive relief through a special permit to increase the lot coverage from 20% maximum allowed, up to, but not to exceed, 25% coverage by structures.

The Board finds that the application may be approved under Section 240-69 E. by this Board as the proposed removal of deck and screened porch and the construction of a one-story addition to create a bedroom in its place will not impact the character of the property or the neighborhood; that said addition will not overshadow adjacent property; that the proposed addition will not impact any view or vista from the roadway; and that proposed addition will not have any effect of nitrogen loading on a coastal embayment.

The Board finds that the proposed third bedroom on subject property is allowed as long as the subject property is connected to the Town sewer. At this time the property may not be connected to the sewer according to the Town map so verification would be required prior to occupancy for the proposed bedroom approved herein.

The Board finds through referral by the Town Engineering Department that the proposed addition should have drywells located nearby to contain runoff from additional roof area. The Board further finds that drywells or other stormwater measure shall be taken by the applicant to maintain runoff on site.

In addition to the above findings, the Board finds that the proposed addition of a bedroom to the existing dwelling on subject property 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 of a bedroom as the proposed will be in compliance with the easterly side yard and front yard setbacks, the existing nonconforming side yard setback on the westerly side will not be increased and lot coverage by structures will be slightly increased through relief from the Board under Section 240-69 E. of the Code of Falmouth.

B. The site is suitable for the proposed use as the property is zoned residential and will be maintained as a single-family dwelling through this special permit approval.

C. There will be minimal impact on traffic flow and safety through the addition of one (1) bedroom to the existing two-bedroom dwelling 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 property is within the Town sewer (Little Pond Sewer System) area and verification of connection shall be provided to the Board of Appeals prior to issuance of a building permit for this additional bedroom on subject property.

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

G. The proposed addition to the existing 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 of a third bedroom to the existing two-bedroom one-story 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 Sandra L. Knight (herein referred to as Applicant) under Section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to remove existing deck and screened porch and construct in its place an addition to for a third bedroom for the pre-existing nonconforming single-family dwelling on subject property known as 77 Priscilla Street, Teaticket, Massachusetts. This special permit shall be subject to the following conditions:

1. The removal of the existing deck and screened porch on the east façade of the existing dwelling, all setbacks, lot coverage, height of addition and use of the addition shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
 - “Plot Plan Proposed Addition” as drawn by Warwick & Associates, Inc. on a plan dated 05/19/2017 with a final revision date of 08/17/2018 – plan is stamped and signed by Gary S. Labrie, PLS on 09/17/2018 and has a Board date ‘received’ stamp of September 18, 2018;
 - “Sandra Knight 77 Priscilla St.” hand drawn plan showing existing floor plan of existing 2 bedroom dwelling with a Board date ‘received’ stamp of October 10, 2018; and
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2. There shall be no more than three (3) bedrooms on subject property. Any additional habitable space (including bedrooms) shall require public hearing process before the Board of Appeals.

3. The applicant shall install drywells, rain garden or other stormwater measure to maintain runoff on subject property. The location of stormwater measures shall be located near the addition and said exact location of drywells may be at the discretion of the project engineer.
4. The applicant shall submit to the Board of Appeals, prior to issuance of a Building Permit, verification that subject property is connected to the Town sewer (LPSSA). In the event the property is not currently connected, there shall be no occupancy for the third bedroom approved herein until such time as the property is connected to the Town sewer.
5. There shall be no more than three (3) bedrooms on subject property. Any increase in habitable space or bedroom count will be reviewed by the Board of Appeals through a public hearing process.
6. There shall be no cooking facilities of any kind within the proposed bedroom addition approved herein.
7. 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.
8. The Applicant shall meet the requirements of the DPW Water Division.
9. 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.)
10. 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: **084-18**

Applicant/Owner: **SANDRA L. KNIGHT of Teaticket, Massachusetts**

Subject Property: **77 Priscilla Street, Teaticket, Massachusetts
Map 39A Section 15 Parcel 000 Lot 014**

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 to 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

NOV -2 2018

FALMOUTH TOWN CLERK

0001045am

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.