



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO: 104-18

APPLICANT/OWNER: THOMAS C. AND MARGARET M. O'BRIEN, TRUSTEES, O'BRIEN FAMILY IRREVOCABLE TRUST, 7 PRISCILLA STREET, TEATICKET, MA

SUBJECT PROPERTY: 7 PRISCILLA STREET, TEATICKET, MA 02536
Assessor's Map: Map 39A, Section 32, Parcel 000, Lot 004

DEED/CERTIFICATE: Certificate 202195 4 & 5 4286-A (plt 4)

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. Under a date of October 25, 2018, the Applicant filed an application with the Zoning Board of Appeals for a Special Permit, pursuant to Section(s) 240-3(C) and 240-69E of the Code of Falmouth, to construct a dormer across the rear of the second floor of the dwelling, and to convert an existing deck into a three-season room, on subject property known as 7 Priscilla Street, Teaticket, Massachusetts.
2. Notice was duly given, as required by M.G.L. Ch. 4A, § 11, as well as notices mailed to all persons deemed to be affected thereby, as they appear on the tax list, and at which hearing, relevant and appropriate testimony was heard.
3. A duly advertised public hearing was originally scheduled to open on December 20, 2018. However, the Zoning Board of Appeals lacked a quorum to hold the public hearing. The hearing was rescheduled to be heard on January 10, 2019, and was re-advertised in a local newspaper, with notices mailed to abutters. Gregory Jones, Agent for the Applicant, signed an extension for the opening of the

hearing, which extension was dated December 20, 2018, and filed with the Town Clerk, on December 21, 2018. The advertised public hearing was opened on January 10, 2019.

4. The public hearing was closed on January 10, 2019, wherein the Zoning Board of Appeals, consisting of Chairman Terrence J. Hurrie, Vice Chairman Kenneth H. Foreman, Member Edward Van Keuren, Member Paul Murphy, and Associate Member Gerald Potamis (appointed as voting member by Mr. Hurrie), 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 Gregory Jones, who reviewed and discussed the request for special permit with the Board.

6. The documents and information received by the Zoning Board of Appeals are on file in the office at Town Hall, as set forth below:

Letters/E-mails from Abutters/Interested Parties

- Letter in support from James Sullivan, 23 Priscilla Street, Falmouth, MA, dated December 11, 2018

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

- "Certification of Trust, O'Brien Family", signed October 25, 2013, and notarized by Greta A. Atchinson, Notary Public

Letters/Referrals/E-mails from Town Departments

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

- Engineering comments, dated 11/29/18
- Conservation Commission, no comments, dated 11/28/18
- Board of Health, comments, dated 11/26/18
- Water, no comments, dated 11/7/2018
- Assessors, comments, dated 11/6/18
- Fire Department, no comments, dated 11/1/18
- Water Department, no comments, dated 10/28/18
- Planning, no comments, dated 10/26/18

Plans submitted by Applicant/Applicant's Representative

- "Site Plan of Proposed Renovations prepared for O'Brien Family Irrevocable Trust, for Lots 4 & 5, # 7 Priscilla Street, Teaticket, Falmouth, MA", prepared by Holmes and McGrath, Inc., 205 Worcester Court, Suite A4, Falmouth, MA, dated 10/19/2018
- "Proposed Renovations O'Brien Residence, 7 Priscilla Street, Falmouth, Massachusetts", including Sheet ex-01, A-01, and A-02, all prepared by Gregory Jones Architect, 31 High Street, South Dartmouth, MA, and dated October 15, 2018

Hearing:

Appearing before the Board was Gregory Jones, project architect. Mr. Jones presented the case information, and discussed the plans for the conversion of the existing 12-foot by 16.5-foot deck to be a three season room, plus installation of a shed dormer, on the southerly side of the second floor of the dwelling in the Residential C District. The dormer shall provide for the extension of two existing bedrooms plus closets, and a new bathroom. The ridge height will not change. The lot coverage, which is currently 21%, will remain at 21%. Mr. Jones noted that the house is hooked up to the sewer system.

Chairman Hurrie asked for any public comment in support of, or opposition to the proposed project. There was no public comment; however there is a letter of support in the file.

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

Chairman Hurrie closed the hearing.

FINDINGS

The Zoning Board of Appeals carefully considered the facts and evidence submitted at the hearing, and made the following findings:

The subject property, located at 7 Priscilla Street, Teaticket, Massachusetts, comprises Lots 4 & 5, and contains 4,800 square feet of area in Residence C zoned land, within the Great Pond Coastal Overlay District. The lot has 60 feet of frontage and lot width. The dwelling is sited 21.1 feet from the street. The premises is nonconforming due to insufficient lot area, street frontage, lot width, and distance from the street. The applicant applied under Section(s) 240-3 (C) and 240-69 (E) of the Code of Falmouth to allow reuse of an existing 12-foot by 16.5-foot deck to be a three season room, plus installation of a shed dormer on the southerly side of the second floor of the dwelling.

The Board found that the proposed changes to the pre-existing nonconforming dwelling were not substantially more detrimental than the existing dwelling.

In addition to the above findings, the Board finds that the proposed three season room and dormer will be in harmony with the general purpose and intent of the By-Law, 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 three-season room and dormer, with the lot coverage remaining at 21%, and not increasing.

B. The site is suitable for the proposed use, as the property is zoned residential, and has been used as such since its inception.

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 the site.

D. There does not appear to be any impact on the visual character of the neighborhood, with the ridge height remaining the same, and there is no impact on any view or vista from the roadway or abutting properties, as the dormer and three-season porch are located in the rear of the dwelling.

E. The sewage disposal system will not be impacted, as the property is on the sewer system, and there is no increase in bedroom count.

G. The proposed three-season room and dormer 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 in compliance with 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 Zoning Board of Appeals weighed the effects of the proposed three-season room and shed dormer at 7 Priscilla Street, Teaticket, MA as discussed herein, and found that the beneficial effects of granting this permit outweigh any negative effects there may be. The Board further found that the granting of this permit will be in harmony with the purpose and intent of the Zoning Bylaw, and that the change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

Member Foreman made a motion to grant the Special Permit with conditions. Member Murphy seconded the motion; with a unanimous 5-0 vote.

NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals (herein referred to as the "Board") being of the opinion aforesaid, and acting under the provisions of the Code of Falmouth, voted 5 to 0 to grant a special permit under Section(s) 240-3 (C) and 240-69 (E) of the Code of Falmouth to allow the three-season room and shed dormer. This special permit shall be subject to the following conditions:

1. The three-season room and dormer shall be as represented to the Board, being no closer than 11.7 feet from the easterly property side lot line, and substantially as shown on the plans submitted and reviewed by the Board as follows:
 - "Site Plan of Proposed Renovations prepared for O'Brien Family Irrevocable Trust, for Lots 4 & 5, # 7 Priscilla Street, Teaticket, Falmouth, MA", prepared by Holmes and McGrath, Inc., 205 Worcester Court, Suite A4, Falmouth, MA, dated 10/19/2018
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2. Any deviation, no matter how minor, from plans submitted and approved, shall be submitted to the Board for approval prior to implementation of said change. Minor changes may be administratively approved by the Zoning Administrator.
3. The Applicant shall comply with the Engineering referral recommendations of 11/29/18, and shall follow up with the Board of Health regarding compliance.
4. 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, is recorded in Barnstable Registry of Deeds, or that an appeal has been filed within such time, (Any person exercising rights under a duly appealed special permit does so at risk that a court may 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 Zoning Board of Appeals.

Action: The Board of Appeals, by the signature below, certifies the vote of the Board, as follows, for the above referenced hearing:

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 J. Hurrie, Chairman, Board of Appeals

RECEIVED
JAN 18 2019
FALMOUTH TOWN CLERK
APC 11:00am
RECEIVED
JAN 18 2018
FALMOUTH TOWN CLERK
APC 9:30am

Date Filed With Town Clerk