



TOWN OF FALMOUTH  
ZONING BOARD OF APPEALS  
DECISION

SPECIAL PERMIT NO: 111-18

APPLICANT/OWNER: Jeffrey K. Terra, Trustee of the Janet L. Terra Trust,  
231 South Walker Street, Taunton, Massachusetts

SUBJECT PROPERTY: 25 Harmony Street, Teaticket, Massachusetts

Assessor's Map: Map 46A, Section 11, Parcel 000, Lot 014

DEED/CERTIFICATE: 215872 LC Plan 4286-A (Plate 16), Lots 14, 15 & 16

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. An application was filed on November 13, 2018, with the Zoning Board of Appeals for a Special Permit, pursuant to Section(s) 240-3 (C) and 240-68 (A) of the Code of Falmouth, to construct a single-story addition to the existing nonconforming dwelling on subject property, known as 25 Harmony Street, Teaticket, Massachusetts.

2. Notice was duly given, as required by M.G.L. Ch. 40 A, § 11, including notices mailed to all persons deemed to be affected thereby, as they appear on the most recent 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. 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 Robert B. Dugan (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. Thomas J. Bunker of BSS Design, Inc., 164 Katherine Lee Bates Road, Falmouth, MA, 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

- None

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

- September 26, 2018, letter of authorization for representation, signed by Jeffrey K. Terra, Trustee
- November 13, 2018 Transmittal letter from BSS Design

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 12/7/18
- Conservation Commission, no comment, dated 11/28/18
- Board of Health, comments, dated 11/26/18
- Water, no comment, undated (rec'd by ZBA 11-16-2018)
- Assessors, comments, dated 11/19/18
- Fire Department, no comments, dated 11/15/18
- Planning, no comments, dated 11/14/18

Plans submitted by Applicant/Applicant's Representative

- "Photographs of the Existing House – 25 Harmony Street", dated 8/30/2018
- "Plot Plan – Proposed Addition", prepared for Fred Terra, 25 Harmony Street, Falmouth, Massachusetts, prepared by BSS Design, 164 Katherine Lee Bates Rd, Falmouth, MA, dated October 31, 2018
- "Fred Terra, 25 Harmony Street, Falmouth, MA", renderings and floor plans, including sheets P-1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 (hand numbered), prepared by Adams Construction, dated 11/10/2018

Hearing:

Appearing before the Board was Thomas Bunker, engineer, representing the property owners. Mr. Bunker presented the case information, and discussed the plans for a 22-foot by 20-foot, single-story

addition to the easterly side of the dwelling, at 25 Harmony Street, Teaticket, Massachusetts (the "Premises"). The addition will provide for two new bedrooms. One of the existing bedrooms in the dwelling will be converted to a study. The improved dwelling will have a total of three bedrooms. He reported that the dwelling is sited 20.4 feet from the street, which is further from the street than the abutters, yet still encroaching into the 25-foot setback requirement. The addition is proposed to be 25 feet from the street, in compliance with the By-Law. The lot comprises 7,200 square feet of area, in the Residential C zoning district, which district requires a minimum 40,000 square feet. The lot has 90 feet of street frontage, in a district requiring a minimum of 100 feet. The existing lot coverage by structures is 790 square feet, or 10.97%. The proposed lot coverage by structures is 1,230 square feet, or 17.08%. Mr. Bunker stated that there are abutting dwellings that are taller than the subject dwelling, which is 16.1 feet tall. He reported that the addition would have crawl space underneath. There will be a step up, with the floor at 13.1 feet, to provide for flood storage. The roof of the addition will be at 18.3 feet. Mr. Bunker stated that there will be no new nonconformities created, and no adverse impact to the neighborhood. Mr. Bunker stated that the Premises is connected to the sewer, and that the addition has been engineered to not direct any runoff toward abutters.

Chairman Hurrie asked for any public comment in support of, or opposition to, the proposed project. Ken Foley, 28 Harmony Street, stated that the proposal represented a great reuse of the dwelling, and an improvement for the neighborhood.

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

The Premises is located at 25 Harmony Street, Teaticket, Massachusetts, and comprises 7,200 square feet of area, in Residence C zoned land, within the Search and Rescue and Little Pond Coastal Overlay District. The Premises has 90 feet of frontage on Harmony Street. The existing dwelling is sited 20.4 feet from the street lot line at the north. The Premises is nonconforming due to insufficient lot area, insufficient street frontage, and the existing encroachment of the dwelling into the street (northerly) lot line. The proposed dwelling, with addition, will cover 1,230 square feet, or 17.08% of the lot, which is less than the maximum 20% allowed for structures. The total lot coverage for structures, parking and paving will be 1,554 square feet, or 21.58% of the lot, which is less than the maximum 40% allowed. The applicant applied under Section(s) 240-3 (C) and 240-68(A) of the Code of Falmouth, to allow construction of a conforming single-story addition to the nonconforming dwelling and lot.

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

In addition to the above findings, the Board finds that the proposed addition will be in harmony with the general purpose and intent of the By-Law, and does include consideration, as 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, with the lot coverage being increased from 10.97% to 17.08%, remaining below the 20% limit of the By-Law.

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 only one net additional bedroom added to 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 only slightly increased to 18.3 feet, which is below the ridge height of some neighboring dwellings, and no impact on any view or vista from the roadway or abutting properties. The setback to the east will be 19.8 feet, exceeding the minimum requirement of 10 feet.

E. The Premises is connected to the sewer system.

G. The addition 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 By-Laws 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 addition at the Premises, 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.

Associate Member Dugan 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 240-68 (A) of the Code of Falmouth, to allow the 22-foot by 20-foot single-story addition. This special permit shall be subject to the following conditions:

1. The single-story addition, shall be substantially as shown on the plans submitted and reviewed by the Board, as follows:

- "Photographs of the Existing House – 25 Harmony Street", dated 8/30/2018
- "Plot Plan – Proposed Addition", prepared for Fred Terra, 25 Harmony Street, Falmouth, Massachusetts, prepared by BSS Design, 164 Katherine Lee Bates Rd, Falmouth, MA, dated October 31, 2018

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2. One existing bedroom shall be converted to a study. This dwelling is limited to three bedrooms.
  3. The maximum height shall be 18.3 feet, and the addition will conform with flood zone requirements.
  4. 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.
  5. The Applicant shall comply with the Engineering referral recommendations of 12/7/18, regarding drywells.
  6. 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.)
  7. 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 23, 2019 AM 8:27  
 TOWN CLERK

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 Date Filed With Town Clerk