



TOWN OF FALMOUTH  
ZONING BOARD OF APPEALS  
DECISION

SPECIAL PERMIT NO: 001-19  
APPLICANT/OWNER: Bruce A. Buckley and Debra L. Buckley  
2 Pamet Road, North Falmouth, Massachusetts  
SUBJECT PROPERTY: 2 Pamet Road, North Falmouth, Massachusetts  
Assessor's Map: Map 13, Section 13, Parcel 000, Lot 088  
DEED/CERTIFICATE: Book 22433, Page 249  
SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. An application was filed on January 3, 2019, with the Zoning Board of Appeals, for a Special Permit, pursuant to Section(s) 240-3, and 240-69 E. of the Code of Falmouth, to construct an addition to the existing nonconforming dwelling at 2 Pamet Road, North Falmouth, Massachusetts (the "Premises").
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.
3. The hearing was opened on February 7, 2019. Board members Terrence J. Hurrie, (Chairman), Kenneth H. Foreman (Vice Chairman), Robert Dugan (Associate), and Gerald Potamis (Associate) were present. (Board member Edward Van Keuren was absent.) Mr. Potamis and Mr. Dugan were appointed voting members for the hearing. The Chairman announced that, due to the Board's composition, a unanimous vote was required for approval.
6. Laura M. Moynihan, Esq., 17 Academy Lane, Suite 1, Falmouth, MA appeared before the Board, consented to continue with the hearing, and presented the case. Ms. Moynihan represented Bruce A. Buckley and Debra L. Buckley, 2 Pamet Road, North Falmouth, Massachusetts (the "Applicant").
7. The public hearing was closed on February 7, 2019, wherein the Board made a decision to grant the Special Permit, with conditions. Minutes of the hearing(s) are on file in the Board of Appeals.

8. 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)

- Authorization for representation, signed by Bruce A. Buckley, and Debra L. Buckley, dated 12/20/2018
- Letter from Laura M. Moynihan, dated January 30, 2019

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 no reply
- Conservation Commission no comment, dated 2/6/19
- Board of Health comments, dated 1/3/19, and email dated February 6, 2019
- Water, no reply
- Assessors, no comment, dated 1/4/19
- Fire Department, no comment, dated 1/7/19
- Planning, no comments, dated 1/4/19

Plans submitted by Applicant/Applicant's Representative

- "Lot Coverage Analysis – for 2 Pamet Road, including subject lot, plus 21 abutting properties, with attached Assessor records
- "Plot Plan – Proposed Addition", prepared by BSS Design, 164 Katharine Lee Bates Road, Falmouth, MA, dated December 10, 2018 (superseded)
- "Plot Plan – Proposed Addition", prepared by BSS Design, 164 Katharine Lee Bates Road, Falmouth, MA, rev. dated January 11, 2019
- "2 Pamet Road, Zoning Board of Appeals, Town of Falmouth, Appeal No. 001-19 – Bruce A. and Debra L. Buckley", copy of presentation to Board, submitted by Laura Moynihan, date stamped Feb. 07, 2019
- "Buckley Residence, 2 Pamet Road, North Falmouth, MA", prepared by JB Designs, P.O. Box 285, West Barnstable, including page 1 of 1 (superseded), dated 7-16-16, "Proposed Season Room, Master Bedroom, Bath and Closet", sheet 1 of 5, dated 11-13-18, with "Proposed First Floor Plan", and "Proposed Second Floor Plan B", stamped received Jan 03, 2019 (superseded). "Existing Basement Floor Plan", and "Proposed Second Floor Plan B", both stamped received Feb 14, 2019.

February 7, 2019 Hearing:

Appearing before the Board was Ms. Moynihan, with Mr. Buckley. Ms. Moynihan stated that the Applicant applied under Section(s) 240-3, and 240-69 E. of the Code of Falmouth, requesting a special

permit to remove an existing deck, and replace it with a two-story addition, on sono tubes. The first floor will be a season room, and the second floor will be for the master bedroom. The height of the addition will be 21 feet, 4 ¾ inches, which is just below the height of the existing dwelling, at 21 feet, 8 ¾ inches.

The existing dwelling, constructed in 1988, comprises 4 bedrooms, one on the first floor, and three on the second floor. The existing basement is finished. The Premises comprises 9,127 square feet of area, in the Residential C zoning district.

Ms. Moynihan explained that she performed a lot coverage analysis for the neighborhood, and found that the neighboring lots typically ranged from 20 to 25% for lot coverage, with 9 dwellings exceeding the district maximum of 20%. The Premises has an existing lot coverage of 21.98%. Ms. Moynihan stated that the proposed lot coverage with the addition would minimally increase to 22.05%, which was in keeping with the neighborhood.

The Board inquired about storage areas. Mr. Buckley stated that two storage areas are under the eaves, and that there is also storage in the basement, shed and garage. Mr. Buckley explained that the storage off the existing bedroom # 3 and bedroom #2, are full height. However, this space has no windows, is unfinished, and unheated. Mr. Buckley stated that he would have the plans updated to show the door access from bedroom #3 into the storage space. He also reported he was willing to have the storage space conditioned as uninhabitable.

The Board also inquired about whether the Applicant was willing to eliminate the existing shed on the Premises, in order to reduce the lot coverage. Ms. Moynihan stated that the Applicant uses the outdoor storage for his lawn mower, and would like to maintain that.

Chairman Hurrie asked for any public comment in support of, or opposition to, the proposed project. No one further appeared on the petition.

Mr. Dugan made a motion to close the hearing. Mr. Potamis seconded the motion. The motion carried 4-0.

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 subject site is located at 2 Pamet Road, North Falmouth, Massachusetts (the "Premises"), and comprises 9,127 square feet of area, in the Residential C zoning district, as well as the Wild Pond Coastal Pond Overlay District. Residential C zoning requires a minimum lot area of 40,000 square feet. The Premises has 90.04 feet of street frontage in a district requiring a minimum 100 feet of frontage. The existing dwelling is sited 11.2 feet from the north, 37.6 from the northwest, 15.3 feet from the southwest, 29.5 feet from the south (street), and 13.2 feet from the east. The Residential C minimum setback from the street is 25 feet, and the minimum setback from the side and rear lot lines is 10 feet. The proposed addition will be 13.0 feet from the north, and remain at 37.6 feet from the northwest side lot lines. The lot coverage will increase minimally, from 21.98% to 22.05 %, and is consistent with the neighborhood. No opposition was expressed regarding the proposal.

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

In addition to the above findings, the Board finds that the proposed construction 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 use. The lot coverage by structures will be 22.05%, and the lot coverage by structures/ paving/parking will be 23.84%, which is less than the 40% maximum. While the proposal will be exceeding the 20% lot coverage by structures, the Board found that that condition was existing, is increasing only minimally, and is remaining within the range of the neighborhood.
- B. The site is suitable for the proposed use, as the property is zoned Residential C, with neighboring single family residences.
- C. There will be no impact on traffic flow and safety.
- D. There does not appear to be any impact on the visual character of the neighborhood, or view or vista from the roadway or abutting properties, given that the addition is sited to the north (rear) of the dwelling, and the addition will be slightly lower than the existing height.
- E. There will be no impact on sewage disposal, source of water, and drainage; the dwelling has a 4-bedroom septic system, and will remain at four bedrooms.
- G. The reconstruction discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.
- H. There was no requirement for review by the Planning Board, and they issued no comment on January 4, 2019.
- 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 reconstruction 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 By-Law, and that the change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.


Mr. Dugan made a motion to grant the Special Permit with conditions. Mr. Potamis seconded the motion; with a unanimous 4-0 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 4 to 0, to grant a special permit under Section(s) 240-3, and 240-69 E. of the Code of Falmouth, to allow an addition. This special permit shall be subject to the following conditions:

1. The construction shall be substantially as shown on the plans submitted and reviewed by the Board, as follows:
  - "Plot Plan – Proposed Addition", prepared by BSS Design, 164 Katharine Lee Bates Road, Falmouth, MA, rev. dated January 11, 2019
  - "Buckley Residence, 2 Pamet Road, North Falmouth, MA", prepared by JB Designs, P.O. Box 285, West Barnstable, including sheet 1 of 5, dated 11-13-18, with "Proposed First Floor Plan", and "Existing Basement Floor Plan", and "Proposed Second Floor Plan B", both stamped received Feb 14, 2019.
2. The 18.5-foot by 12-foot addition, shall be sited 13.0 feet from the north, and 37.6 feet from the northwest side lot lines.
3. The maximum height of the garage shall be 21 feet, 4 3/4 inches.
4. The storage space on the second floor will remain not habitable space.
5. 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.
6. The Applicant shall comply with any Town Boards or departments having jurisdiction over the development.
7. 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.)
8. 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: 4 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, Zoning Board of Appeals

RECEIVED  
FEB 20, 2015 PM 4:11  
TOWN CLERK  


\_\_\_\_\_  
Date Filed With Town Clerk