



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO: 002-1

APPLICANT/OWNER: Richard A. and Patricia Graham
58 Marina Gardens Drive, Palm Beach Gardens, FL

SUBJECT PROPERTY: 331 Woods Hole Road, Woods Hole, Massachusetts
Assessor's Map: Map 50, Section 02, Parcel 000, Lot 005

DEED/CERTIFICATE: 207491 5 15499-I

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. An application was filed on January 4, 2019, with the Zoning Board of Appeals, for a Special Permit, pursuant to Section(s) 240-68 A. (8) of the Code of Falmouth, to construct a detached garage in the front yard, at 331 Woods Hole Road, Woods Hole, 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. William F. Roslansky, 26 Albatross Street, Woods Hole, MA appeared before the Board, consented to continue with the hearing, and presented the case. Mr. Roslansky represented Richard A. and Patricia Graham, 58 Marina Gardens Drive, Palm Beach Gardens, Florida (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 Patricia and Richard Graham, dated 11/20/2018

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 reply
- Board of Health comment, dated 1/3/19
- Water, no comment, dated 1/8/2019
- Assessors, comment, dated 1/10/19
- Fire Department, no comment, dated 1/8/2019
- Planning, no comments, dated 1/7/19

Plans submitted by Applicant/Applicant's Representative

- "Plot Plan – Proposed Garage, for #331 Woods Hole Road", prepared by Falmouth Engineering, 17 Academy Lane, Suite 200, Falmouth, MA, dated December 8, 2018
- "Graham Garage, 331 Woods Hole Rd., Woods Hole, MA", "Garage", "Floor Plans, sheet A-1", and "Elevations, sheet A-2", all prepared by William F. Roslansky, 26 Albatross Street, Woods Hole, MA, and dated 12/3/2018
- February 7, 2019 Hearing:

Appearing before the Board was Mr. Roslansky. He stated that the Applicant requests a special permit to construct a detached 2-car garage, in their front yard, to store their boat. The existing dwelling is sited toward the westerly (rear) side of the lot. Mr. Roslansky stated that the existing septic system is sited to the easterly side of the dwelling, and that the land to the southerly side has steep topographic changes. He reported that the optimal location for the garage was therefore toward the easterly side of the lot, which is within the front yard of the dwelling. The garage is planned to be further than 50 feet from the street line.

Mr. Roslansky reported that the proposed garage will be cut into a hill area, where half of the garage will be buried.

He reported that the proposed site is actually more sensitive to, and less visible by the neighbors. The garage will be accessed by a U-shaped driveway. The eave of the garage will be parallel to the road, which is reported to be better aesthetically. Mr. Roslansky reported that the detached garage will meet lot coverage, and setback requirements. He stated that they intend to save most trees during construction.

The height of the garage, facing the street, will be 17.5 feet. The total height of the garage will be just under 22 feet, to meet the height limitation for an accessory structure. There will be a door, within the southerly elevation of the garage, for access to storage. No stairway is planned for access from the lower level.

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

Mr. Potamis made a motion to close the hearing. Mr. Foreman 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 331 Woods Hole Road, Woods Hole, Massachusetts (the "Premises"), and comprises 49,665 square feet, in the Residential A zoning district, as well as the Quissett Harbor Coastal Pond Overlay District, and the Estimated and Priority Natural Habitat of Endangered Species Protection District. Residential A zoning requires a minimum lot area of 45,000 square feet. The Premises has 215.10 feet of street frontage in a district requiring a minimum 100 feet of frontage, and 150 feet of lot width. The existing dwelling's pool is sited 31.7 feet from the west, and 26.6 feet from the north. The dwelling is sited 125.3 feet from the east (street), and 99.1 feet from the south lot lines. There is also a shed, sited 29 feet from the south, and 119.2 feet from the east (street).

The Applicant applied under Section(s) 240-68 A. (8) of the Code of Falmouth, to add a 24-foot by 28-foot detached garage, to be sited 81 feet from the north, 52 feet from the east (street), and 94 feet from the south lot lines. The garage shall be 21 feet, 11 inches in height.

The existing lot coverage by structures is 6.3%; the proposed lot coverage is 7.6%. The lot coverage by structures/ paving/ parking is being increased from 7% to 8.4%.

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, where the proposed garage complies with district setback requirements. The lot exceeds the minimum lot size. The lot coverage by structures is less than the maximum 20% allowed, and the lot coverage by structures/ paving/parking is less than the 40% maximum.
- B. The site is suitable for the proposed use, as the property is zoned Residential A, 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 garage will be tucked in to the natural topography, and will appear lower than the actual height, toward the street.
- E. There will be no impact on sewage disposal, source of water, and drainage.
- 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 7, 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. Foreman 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) 240-68 A. (8) of the Code of Falmouth, to allow a detached garage. 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 Garage, for #331 Woods Hole Road", prepared by Falmouth Engineering, 17 Academy Lane, Suite 200, Falmouth, MA, dated December 8, 2018
 - "Graham Garage, 331 Woods Hole Rd., Woods Hole, MA", "Garage", "Floor Plans, sheet A-1", and "Elevations, sheet A-2", all prepared by William F. Roslansky, 26 Albatross Street, Woods Hole, MA, and dated 12/3/2018

2. The 24-foot by 28-foot detached garage, shall be sited 81 feet from the north, 52 feet from the east (street), and 94 feet from the south lot lines.
3. The maximum height of the garage shall be 21 feet, 11 inches.
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 any Town Boards or departments having jurisdiction over the development.
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: 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, 2019 PM 4:10
TOWN CLERK

Date Filed With Town Clerk