



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO: 008-19

APPLICANT/OWNER: Barnstable County Agricultural Society, Inc.
1220 Nathan S. Ellis Highway, East Falmouth, Massachusetts

SUBJECT PROPERTY: 1220 Nathan S. Ellis Highway, East Falmouth, Massachusetts

Assessor's Map: Map 18, Section 02, Parcel 005, Lot 001
Map 18, Section 02, Parcel 002, Lots 180 – 185
Map 18, Section 02, Parcel 002A, Lots 359 – 361
Map 18, Section 02, Parcel 003, Lot 000
Map 18, Section 02, Parcel 004, Lot 000
Map 18, Section 02, Parcel 006, Lot 002
Map 18, Section 03, Parcel 001, Lot 001
Map 18, Section 03, Parcel 007, Lot 000
Map 18, Section 03, Parcel 008, Lot 000

DEED/CERTIFICATE: Book# 1891 Page# 0243
Certificate: 58678 - 50935

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. An application was filed on February 7, 2019, with the Zoning Board of Appeals, for a Special Permit, pursuant to Section(s) 240-38, 240-109 A and B, 240-160, and 240-18 of the Code of Falmouth, to hold the annual County Fair events and paid parking, in designated lots, at 1220 Nathan S. Ellis Highway, East 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 March 21, 2019. Board members Terrence J. Hurrie, (Chairman), Kenneth H. Foreman (Vice Chairman), Robert Dugan (Member), and Gerald Potamis (Associate) were present. Mr. Potamis was appointed voting members for the hearing. Mr. Dugan was appointed Acting Clerk. Mr. Van Keuren was absent.

4. Appearing before the Board was Wendy Brown, general manager of the Fairgrounds, representing the Applicants.

5. 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)

- "Cape Cod Fairgrounds Schedule of Events, Barnstable County Agricultural Society, 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 comments
- Conservation Commission, no comments, dated 2/20/19
- Board of Health comments, dated 2/11/19
- Water, no comment, dated 1-15-2019
- Assessors, no comments, dated 2/12/19
- Fire Department, no comment, dated 2/12/19
- Planning Board, no comments, dated 2/11/19

Plans submitted by Applicant/Applicant's Representative

- "Plot Plan of Land in Falmouth, MA", prepared by Stephen A. Haas, Engineering, P.O. Box 16, South Dennis, MA, dated January 23, 2018

March 21, 2019

Appearing before the Board was Wendy Brown, general manager of the Fairgrounds, who reviewed and discussed the proposed events at the Premises, for 2019. Ms. Brown reported that she has followed up with both the Police and Fire Chiefs regarding last season, as well as upcoming plans. She reported that food vendors have been notified to contact the Board of Health 30 days prior to an event. Ms. Brown stated she is amenable to the same conditions as provided for in the 2018 Decision for the county fair events.

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

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, comprising 98 acres, which is distributed over multiple lots, as listed on page 1 of this document, generally identified as 1220 Nathan S. Ellis Highway, East Falmouth, Massachusetts (the "Premises"), is in the Agricultural A zoning district, as well as State Zone II District, the Water Resource Protection District, and the Childs River Coastal Pond Overlay District. A portion of the Premises also lies within the Natural Habitat for Endangered Species Project. The Applicant has applied under By-Law § 240-38, 240-160, 240-109 A and B, and 240-18 to allow non-agricultural events to be held on the Premises, which includes parking for events, as well as staging of equipment and trucks. By-Law §240-160 A provides for the Zoning Board of Appeals to issue a special permit for temporary and conditional nonconforming structures and uses be limited to a one-year period.

The Board made the finding that it has issued special permits annually to the Applicant, and noted that there has not been any violations reported. Events are scheduled from May 18, 2019 through November 2019, substantially as shown on "Cape Cod Fairgrounds Schedule of Events, Barnstable County Agricultural Society, 2019".

No opposition was expressed regarding the proposal.

The Board thereby found that the proposed changes (events) were not substantially more detrimental to the neighborhood.

In addition to the above findings, the Board finds that the proposal 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, where applicable.

- A. The site is adequate, in terms of size, for the proposed use.
- B. The site is suitable for the proposed use.
- C. There will be periodic impact on traffic flow, which will be monitored, as needed, by the Police Department.
- D. There may be some temporary impact on the visual character of the neighborhood, or view or vista from the roadway or abutting properties, given the various programs.
- E. The Applicant will comply with Board of Health requirements regarding wastewater management, and food vending.
- G. The seasonal fair 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 February 11, 2019.
- I. The application is in compliance with all applicable sections of the Zoning By-Laws as represented, except for the relief 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 fair events 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 to the neighborhood.

Mr. Dugan made a motion to grant the Special Permit with conditions. Mr. Potamis seconded the motion; followed by 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) 240-38, 240-109 A and B, 240-160, and 240-18 of the Code of Falmouth, to hold the annual County Fair, with non-agricultural events and paid parking, in designated lots, at 1220 Nathan S. Ellis Highway, East Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

1. The events and parking shall be held on the Premises, as represented on "Plot Plan of Land in Falmouth, MA", prepared by Stephen A. Haas, Engineering, P.O. Box 16, South Dennis, MA, dated January 23, 2018.
2. The Applicant shall work with the Falmouth Police Department for any necessary traffic details, the Board of Health regarding food vendors or wastewater, and the Board of Selectmen for any alcohol licensing.
3. 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.)
4. This permit shall expire on December 31, 2019.

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.



Robert B. Dugan, Member, Zoning Board of Appeals

RECEIVED
APR 4, 2019 AM 10:12
TOWN CLERK



Date Filed With Town Clerk