



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO: 007-19
APPLICANT/OWNER: Joseph P. Gardner and Donna Dilillo
51 Harbor Farms Road, East Falmouth, Massachusetts
SUBJECT PROPERTY: 51 Harbor Farms Road, East Falmouth, Massachusetts
Assessor's Map: Map 45, Section 16, Parcel 001, Lot 018
DEED/CERTIFICATE: Certificate: 29494-48
SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. An application was filed on February 6, 2019, with the Zoning Board of Appeals, for a Special Permit, pursuant to Section(s) 240-23 G. (1) (b) of the Code of Falmouth, to add an additional garage bay, thereby exceeding 900 square feet of footprint for garage space, at 51 Harbor Farms Road, 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 Scott Collum, 43 Deer Meadow Lane, Brewster, MA, 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)

- Consent for representation, by Joseph Gardner, dated February 4, 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, comments dated 3/6/19
- Conservation Commission, no comments, dated 2/20/19
- Board of Health, comment, dated 2-15-19
- Water, no comment, dated 2-11-2019
- Assessors, no comments, dated 2/11/19
- Fire Department, no comment, dated 2/7/19
- Planning, no comments, dated 2/7/19

Plans submitted by Applicant/Applicant's Representative

- "Plot Plan of Proposed Additions", prepared by Holmes and McGrath, Inc., 205 Worcester Court, Suite A4, Falmouth, MA, dated 11-29-18
- "Gardner Addition", Foundation Plan View, S-1, Exterior Elevations, A-3, Exterior Elevations, A-4, and 1st & 2nd Floor Plan Views, A-1, all prepared by Michael Hally Design, Inc., 7 Olde Coach Road, Westborough, MA, dated 11-17-18

March 21, 2019

Appearing before the Board was Scott Collum, who reviewed and discussed the proposed addition at the Premises. Mr. Collum stated that the Premises has a 2-car garage, but that they seek a single bay addition, in order to provide for storage/garage space. He noted that the height of the addition would be 17 feet, which is lower than the existing ridge height of 22 feet, 10 inches. The addition will add a total of 16 feet, 1 inch to the front (east) side of the dwelling, and will be 24 feet deep (southerly dimension). The proposal will also include a 6.5-foot by 10-foot extension of the den, on the westerly side of the dwelling. The garage bay addition will be sited 12 feet from the southerly lot line, in compliance with the 10-foot minimum side lot line setback. All setback requirements comply with district requirements.

Mr. Collum stated that the dwelling was 241 feet from the road, that the lot was flat, and that the closest neighbor has a manicured lawn, with a 1.5-foot rise at the lot line; therefore there can be no runoff to abutting properties. Mr. Collum noted that the Premises was fully conforming, other than exceeding the 900 square foot threshold for garage space, which may be permitted by special permit, as provided for in By-Law § 240-23 G.(1)(b). The garage space will be unheated, uninhabitable, and built on a 4-foot foundation. Access to storage above will be via nonconforming stairs (due to the pitch).

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

Mr. Foreman 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 Premises comprises 30,989 square feet of area, and is sited in the Single Residence District B, as well as the Green Pond Coastal Overlay district. The Premises has 49.91 feet of frontage on Harbor Farms Road. The existing lot coverage by structures is 10.5%; the proposed lot coverage is 12.6%. The By-Law maximum is 20% lot coverage. The lot coverage by structure/paving/parking is 13.0%; the proposed lot coverage is 15.1%. The By-Law maximum is 40%. The dwelling is sited 241 feet from the street (east), 25.7 feet from the north, 18.9 feet from the west, and 27.3 feet from the north. The addition will be sited 12 feet from the south. The district requires a 25-foot setback from the street, and a 10-foot setback from side and rear lot lines. The Premises is also improved by a shed, sited 3.5 feet from the southerly lot line. The By-Law provides for sheds to be sited 3 feet from a side lot line. The structures on the Premises conform to district setback requirements. The garage bay addition will be 17 feet in height.

No opposition was expressed regarding the proposal.

The Board thereby found that the proposed changes to the dwelling 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. The lot coverage by structures and by structure/paving/parking are both well below the district maximum.
- B. The site is suitable for the proposed use. The Premises is sited in the Single Residence District B, within neighboring single-family residences. The Premises is conforming; a special permit was required to add a third car garage bay.
- 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 lower in height than the existing dwelling, and complies with district setback requirements.
- E. There will be no impact on sewage disposal, source of water, and drainage; the dwelling has a four-bedroom septic, and is not increasing the bedroom count.

F. The addition discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.

G. There was no requirement for review by the Planning Board, and they issued no comment on February 7, 2019.

H. The application is in compliance with all applicable sections of the Zoning By-Laws as represented, except for the nonconformity stated herein.

I. The proposal will have no effect on the supply of affordable housing in Falmouth.

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 By-Law, and that the change, extension or alteration shall not be substantially more detrimental to the neighborhood.

Mr. Foreman 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) 240-23 G. (1) (b) of the Code of Falmouth, to construct a third car garage bay, at 51 Harbor Farms Road, East Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

1. The construction shall be substantially as shown on the plans submitted to, and reviewed by the Board, as follows:
 - "Plot Plan of Proposed Additions", prepared by Holmes and McGrath, Inc., 205 Worcester Court, Suite A4, Falmouth, MA, dated 11-29-18
 - "Gardner Addition", Foundation Plan View, S-1, Exterior Elevations, A-3, Exterior Elevations, A-4, and 1st & 2nd Floor Plan Views, A-1, all prepared by Michael Hally Design, Inc., 7 Olde Coach Road, Westborough, MA, dated 11-17-18
2. 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.)
3. 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, for 51 Harbor Farms Road, East Falmouth, Massachusetts, 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 10. 2019 AM 9:13
TOWN CLERK *(signature)*

Date Filed With Town Clerk