



TOWN OF FALMOUTH  
ZONING BOARD OF APPEALS  
DECISION

SPECIAL PERMIT NO.: 012 -19

APPLICANT/OWNER: Paul V. Hoagland and Bonnie A. Hoagland  
30 Davis Neck Road, East Falmouth, Massachusetts

SUBJECT PROPERTY: 30 Davis Neck Road, East Falmouth, Massachusetts  
Assessor's Map: Map 45, Section 22, Parcel 000, Lot 018

DEED/CERTIFICATE: Certificate # 213764

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. On March 7, 2019, the Applicant filed an application with the Zoning Board of Appeals for a Special Permit, pursuant to Section(s) 240-69 E. of the Code of Falmouth, to construct additions exceeding 20% lot coverage, on subject property at 30 Davis Neck Road, East Falmouth, Massachusetts (the "Premises").
2. Notice was given, as required by M.G.L. Chapter 40 A, Section 9, including notices mailed to all persons deemed to be affected thereby, as they appear on the tax list.
3. The advertised public hearing was opened on May 2, 2019, at which hearing, relevant testimony was heard.
4. The public hearing was closed on May 2, 2019, wherein the Zoning Board of Appeals, consisting of Terrence J. Hurrie, Chairman, Kenneth H. Foreman, Vice Chairman, Edward Van Keuren, Member,

Robert B. Dugan, Acting Clerk, and Gerald Potamis, Member, made a decision to grant the Special Permit with conditions. Minutes of the hearing(s) are on file in the Board of Appeals.

5. Kevin P. Klauer, II, Ament Klauer LLP, 39 Town Hall Square, Falmouth, MA appeared with Paul V. Hoagland, 30 Davis Neck Road, East Falmouth, MA (the "Applicant"), at the hearing, and Mr. Klauer II discussed the request for special permit with the Board.

6. The following documents and information are on file in the office of the Zoning Board of Appeals at Town Hall, as set forth below:

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

- December 28, 2018 letter of representation, signed by Paul V. Hoagland, and Bonnie Hoagland
- "Lot Comparison Worksheet, 30 Davis Neck Road", submitted by Ament Klauer LLP, date stamped received Mar 7, 2019
- Five photographs of existing dwelling, date stamped received Mar 7, 2019

Letters/E-mails from Abutters/Interested Parties:

- April 24, 2019 letter from Diane G. Mello, 36 Davis Neck Road (concerns)

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 4/11/19 (4 pages: project must not direct stormwater runoff off property; condition recommended for stormwater mitigation for roof area; requested ZBA require Applicant to provide plans and file a permit to correct unpermitted work in Town right-of-way)
- Conservation Commission, no comment, dated 4/10/19
- Board of Health, comments, dated 4/2/19, (three-bedroom septic system; however, proposed office meets Title V definition of a bedroom. Recommended cased opening for office, to eliminate privacy.)
- Water, comments, dated 3/8/2019 (require water service to be upgraded to 1-inch plastic)
- Assessors, no comments, dated 3/13/19
- Fire Department, no comments, dated 3/12/19
- Planning, no comments, dated 3/11/19

Plans submitted by Applicant/Applicant's Representative

- "30 Davis Neck Road in East Falmouth, Massachusetts", plot plan prepared by Cape & Islands Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA, rev. dated 1/9/2019
- "Hoagland Residence, 30 Davis Neck Road, Falmouth", prepared by Longfellow Design Build, drawn by Adam J. Harris, including sheets A0.0, A1.1, A1.2, A2.0, A2.1, dated January 30, 2019, and EX 1.0, EX 1.1 and EX 1.2, all dated January 23, 2019

Hearing:

May 2, 2019

Mr. Klauer II stated that the Hoagland's are full time residents, with a conforming 1.5 story dwelling, which is 17.7 feet in height. He stated that the additions will include provisions for a first floor den, living room, dining room, kitchen, master bedroom and office space. The second floor will contain two bedrooms and one bathroom. The dwelling will remain as a three-bedroom, however, a special permit is sought to exceed 20% lot coverage, under By-Law Section 240-69 E. A 12.4 foot by 18.9 foot addition is planned for the southerly side of the dwelling. An 18.6-foot by 26.5-foot addition is planned for the northerly side of the dwelling. The ridge height of the addition is proposed to be 18-feet, 11.5 inches. A shed, sited at the northeast corner of the lot is proposed to be removed.

Mr. Klauer II stated that the addition to the south will be 19 feet from the lot line, and will be built on a slab. He reported this will be no detriment to the abutter to the south. Mr. Klauer II stated that 11 homes in the neighborhood have a larger footprint.

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 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:

There were no previous Zoning Board of Appeals cases for the subject lot. The Premises is sited in the Single Residence District B, and comprises 10,000 square feet of area. Existing lot coverage by structures is 12.8%; the proposed lot coverage is 22.1%. Lot coverage greater than 20% and up to 25% is permissible by special permit. The lot coverage by structures/parking/paving is 18.6%; the proposed is 26.4%. Total lot coverage by structures, paving and parking up to 40% is allowed. The lot comparison data submitted into the record indicates 2 neighboring dwellings that exceed the lot coverage by structures of 20%.

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 is being increased from 12.8% to 22.1%; lot coverage by structures/parking/paving is being increased from 18.6% to 26.4%.
- B. The site is suitable for the proposed use, as the property is zoned Single Residence B, with neighboring single-family residences. One letter of concern was received.
- C. There will be no impact on traffic flow and safety.

- D. There will not be any impact on the visual character of the neighborhood, or view or vista from the roadway or abutting properties, given that the dwelling is 1.5 stories, and that the addition is only 18 feet, 11.5 inches in height.
- E. There will be no impact on sewage disposal, source of water, and drainage; the addition will not alter the three-bedroom count, and the Applicant must upgrade water service.
- G. The construction discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.
- H. There was no requirement for site plan review by the Planning Board, and they issued no comment on March 11, 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 additions 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.

NOW THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals, being of the opinion aforesaid, and acting under the provisions of the Code of Falmouth, voted 5 to 0, following a motion made by Mr. Foreman, and seconded by Mr. Potamis, to grant a special permit, with conditions, under Section(s) 240-69 E. of the Code of Falmouth, for 30 Davis Neck Road, East Falmouth, Massachusetts (the "Premises"), to allow installation of an 18.9-foot by 12.4-foot addition to the south, sited 19 feet from the southerly side lot line, and an 18.6-foot by 26.5-foot addition to the northerly side, to be 28 feet from the street (west), and 29.7 feet from the northerly side. 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:
  - "30 Davis Neck Road in East Falmouth, Massachusetts", plot plan prepared by Cape & Islands Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA, rev. dated 1/9/2019
  - "Hoagland Residence, 30 Davis Neck Road, Falmouth", prepared by Longfellow Design Build, drawn by Adam J. Harris, including sheets A0.0, A1.1, A1.2, A2.0, A2.1, dated January 30, 2019, and EX 1.0, EX 1.1 and EX 1.2, all dated January 23, 2019
2. The additions will be sited in compliance with the 10-foot side yard setback requirement, and 25-foot street setback requirement.
3. There shall be a 4-foot cased opening for the office; bedroom count is limited to three.
4. The shed at the northeast side of the lot will be removed.
5. The Applicant shall comply with water service upgrade requirement to 1-inch plastic, per 3/8/2019 referral.

6. The Applicant shall provide plans and secure proper permitting from Town Engineering, to comply with all issues addressed in the 4-11-19 referral document, including stormwater measures for the roof area, and correction of unpermitted work within the Town right-of-way, including the step, gravel strip, and cobblestone apron.

7. 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.

8. 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.)

9. 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.



Robert B. Dugan, Acting Clerk, Zoning Board of Appeals

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