

TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO.: 017 -19

APPLICANT/OWNER: Paul and Barbara L. Nicholson
2 Waverly Drive, Andover, Massachusetts

SUBJECT PROPERTY: 40 Maple Street, Teaticket, Massachusetts
Assessor's Map: Map 39A, Section 01, Parcel 000, Lot 098

DEED/CERTIFICATE: 95390

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. On April 1, 2019, the Applicant filed an application with the Zoning Board of Appeals for a Special Permit, pursuant to Section(s) 240-3C of the Code of Falmouth, to replace an existing deck with a 4-season room, on subject property at 40 Maple Street, Teaticket, 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. There is a previous ZBA case from 1983, wherein the Board granted a variance for a one-foot encroachment of the dwelling into the street setback, due to the placement of the dwelling closer to the street than the required 25 feet, as constructed in 1972. The ZBA also granted a special permit for a second floor addition in 2011.

4. The advertised public hearing was opened on May 23, 2019, at which hearing, relevant testimony was heard.
5. Terrance Quinn, 407 Sippewissett Road, Falmouth, MA appeared, representing Paul and Barbara L. Nicholson, owners of 40 Maple Street, Teaticket, Massachusetts (the "Applicant"). Mr. Quinn discussed the request for special permit with the Board.
6. The public hearing was closed on May 23, 2019, wherein the Zoning Board of Appeals, consisting of Terrence J. Hurrie, Chairman, Edward Van Keuren, Member, Robert B. Dugan, Acting Clerk, and Gerald Potamis, Member, made a decision to grant the Special Permit with conditions. Kenneth H. Foreman, Vice Chairman, and James T. Morse, Associate Member, were absent. Minutes of the hearing(s) are on file in the Board of Appeals.
7. 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):

- "Lot Coverage/Bulk Calculations Worksheet", submitted by T. Quinn, dated stamped May 10, 2019 (12 neighboring properties have lot coverage exceeding 20%)

Letters/E-mails from Abutters/Interested Parties: None

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 (project must not direct stormwater off property; condition requested)
- Conservation Commission, no comment, dated 4/10/19
- Board of Health, comments, dated 4/2/19, (tie-in permit from 2018 required to be closed out)
- Water, no comments, dated 4/4/2019
- Assessors, includes lots 98 and 99, dated 4/3/19
- Fire Department, no comments, dated 4/4/19
- Planning, no comments, dated 4/2/19

Plans submitted by Applicant/Applicant's Representative

- "Plot Plan of Land, Prepared for Paul and Barbara Nicholson", prepared by John Doyle, PLS, 170 Cloverfield Way, E. Falmouth, MA, rev. dated 4-29-19
- "Nicholson Residence", including Second floor Addition Design, including Sheets A1, A2, A3, dated 6/23/11, and Addition Design, including Sheets A1, A2, S1 and D1, dated 11-7-2018, prepared by Designs by SPB, Pocasset, MA

May 23, 2019

Hearing:

Terrence Quinn appeared before the Board, representing Paul and Barbara L. Nicholson (the "Applicant"). Mr. Quinn said the Applicant plans to remove the existing deck, and replace it with a four-season room, slightly decreasing lot coverage from 24.8% to 24.75%. Mr. Quinn said the Applicant will put in a drywell, to control runoff. Mr. Quinn stated that the property is connected to the sewer, and the Applicant will close out the tie-in permit.

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

Mr. Potamis made a motion to close the hearing. Mr. Van Keuren 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:

There is a previous ZBA case from 1983, wherein the Board granted a variance for a one-foot encroachment of the dwelling into the street setback, due to the placement of the dwelling closer to the street than the required 25 feet, as constructed in 1972. The ZBA also granted a special permit for a second floor addition in 2011.

The Premises is sited in the Single Residence District C, and comprises 4,800 square feet of area. Existing lot coverage by structures is 24.84%; the proposed lot coverage is 24.75%. The lot coverage by structures/parking/paving is, and will remain at, 29.53%. Total lot coverage by structures, paving and parking up to 40% is allowed. The lot comparison data submitted into the record indicates 12 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 slightly decreased from 24.84 % to 24.75%; lot coverage by structures/parking/paving remains at 29.53%.
- B. The site is suitable for the proposed use, as the property is zoned Single Residence C, with neighboring single-family residences. No one appeared in opposition to the proposal.
- 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 proposed 4-season room will be sited at the rear (northerly side) of the dwelling, and will be 14-feet, 4-inches in height, which is lower than the existing ridge height of 27-feet, 4 ½ inches.

E. There will be no impact on sewage disposal, source of water, and drainage; the addition will not alter the three-bedroom count. The Applicant will comply with stormwater management, as recommended by Town Engineering.

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 April 2, 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 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.

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 4 to 0, following a motion made by Mr. Dugan, and seconded by Mr. Potamis, to grant a special permit, with conditions, under Section(s) 240-3C of the Code of Falmouth, for 40 Maple Street, Teaticket, Massachusetts (the "Premises"), to allow construction of an approximate 11-foot by 18-foot single-story, 4-season room addition to the northerly side of the dwelling. This special permit shall be subject to the following conditions:

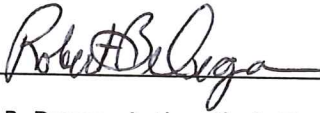
1. The construction shall be substantially as shown on the plans submitted and reviewed by the Board, as follows:
 - "Plot Plan of Land, Prepared for Paul and Barbara Nicholson", prepared by John Doyle, PLS, 170 Cloverfield Way, E. Falmouth, MA, rev. dated 4-29-19
 - "Nicholson Residence", including Second floor Addition Design, including Sheets A1, A2, A3, dated 6/23/11, and Addition Design, including Sheets A1, A2, S1 and D1, dated 11-7-2018, prepared by Designs by SPB, Pocasset, MA
2. The bedroom count is limited to three; tie-in permit from 2018 required to be closed out with Board of Health, prior to final sign off of addition.
3. The Applicant shall comply with the Engineering stormwater runoff mitigation, prior to a final inspection by the Building department.
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. 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.)

6. 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.



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

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JUN 6 2019 PM 4:19
TOWN CLERK *aw*

Date Filed With Town Clerk