



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO.: 021 -19

APPLICANT/OWNER: Platon G. Velonias & Maria Velonias
2261 Massachusetts Avenue, Lexington, Massachusetts

SUBJECT PROPERTY: 154 Edgewater Drive E, East Falmouth, Massachusetts
Assessor's Map: Map 32, Section 15, Parcel 000F, Lot 006A

DEED/CERTIFICATE: Book 24985, Page 40

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. On April 22, 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 reconstruct the single family dwelling at 154 Edgewater Drive E, 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. There was no previous Zoning Board of Appeals case for the Premises.
4. The advertised public hearing was opened on June 6, 2019, at which hearing, relevant testimony was heard.

5. Kevin P. Klauer II, Esq., Ament Klauer LLP, 39 Town Hall Square, Falmouth, MA appeared, representing Platon G. Velonias & Maria Velonias, owners of 154 Edgewater Drive E, East Falmouth, Massachusetts (the "Applicant"). Mr. Klauer II discussed the request for special permit with the Board.

6. The public hearing was closed on June 6, 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.

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):

- Letter for representation, signed by Maria Velonias and Platon Velonias

Letters/E-mails from Abutters/Interested Parties:

- Email letter from Steve Brill, 38 Sachem Road, East Falmouth, MA with attached photo, dated June 5, 2019
- Email letter from Steve Brill, dated May 25, 2019
- Copy of plan, demonstrating 4-foot wide easement along the southerly lot line
- Email from Steve Brill, dated May 23, 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 5/24/19 (project must not direct stormwater off property)
- Conservation Commission, copy of Order of Conditions, issued on 5/15/19, with 5 page letter of Falmouth Conservation Commission
- Board of Health, comments, dated 5/15/19, (must remain as 3-bedroom, with no increase in flow. Reserve area must be shown for septic.
- Water, reports existing 1-inch service line, dated 4/26/2019
- Assessors, no comments, dated 4/25/19
- Fire Department, no comments, dated 4/29/19
- Planning, no comments, dated 4/24/19

Plans submitted by Applicant/Applicant's Representative

- "Existing Conditions Plan", prepared by Falmouth Engineering, 17 Academy Lane, Suite 200, Falmouth, MA, dated March 29, 2019
- "Plot Plan – Proposed House Reconstruction", prepared by Falmouth Engineering, 17 Academy Lane, Suite 200, Falmouth, MA, dated March 29, 2019

- “Front Elevation”, “Rear Elevation”, “Left Elevation”, “Right Elevation”, “Foundation Plan”, “First Floor Plan”, “Section AA”, and “Section BB”, all prepared by Frank D. Ciambriello, 302 Setucket Road, Dennis, MA, dated 12/18

June 6, 2019

Hearing:

Mr. Klauer appeared before the Board. The Applicants seek approval for the raze and reconstruction of the single family structure. The lot is 15,600 square feet of area in the Single Residence C zoning district. A portion of the house is in the AE13 flood zone. The existing 1-story dwelling has a footprint of 1,984 square feet. The dwelling is nonconforming to the northerly side yard setback at 3.7 feet and non-conforming to the 3-foot contour line at 27 feet (east) where 50 feet is required. The existing ridge height is 16 feet. There will be a slight increase in square footage. The applicants are looking to re-build a new 3 bedroom house, which will be compliant with flood zone standards, and which will be in substantially the same footprint as the existing house. This meets the criteria in By-Law section 240-216. The lot coverage by structures will be 14.1%. The proposed ridge height will be 25 feet. Mr. Klauer stated that he reviewed the letters submitted by an abutter regarding the right-of-way. The right-of-way was granted years ago, and it's not the responsibility of the owners to clear and maintain it.

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 5-0. Chairman Hurrie closed the hearing.

FINDINGS

There was no previous Zoning Board of Appeals case for the Premises.

The Zoning Board of Appeals carefully considered the facts and evidence submitted for the hearing, and made the following findings:

The Premises is sited in the Single Residence District C, and comprises 15,600 square feet of area. The existing lot coverage by structures is 12.7%; the proposed lot coverage is 14.1%. Lot coverage by structures is allowed up to 20%. The lot coverage by structures/parking/paving is 21.1%. The proposed lot coverage by structures/parking/paving is 22.5%. Total lot coverage by structures, paving and parking up to 40% is allowed.

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 comprises 15,600 square feet, and lot coverage by structures is being slightly increased from 12.7 % to 14.1%; lot coverage by structures/parking/paving is increasing slightly from 21.1 to 22.5%; well within the By-Law maximum allowance.

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, though there was communication received regarding a right-of-way easement.

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 dwelling will be 25 in height, which is well below the By-Law maximum of 35 feet.

E. There will be no impact on sewage disposal, source of water, and drainage; the reconstruction will not alter the three-bedroom count. The Applicant will provide for reserve septic area, and comply with the requirements of the Conservation Commission.

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 24, 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 replacement dwelling 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. Potamis, and seconded by Mr. Foreman, to grant a special permit, with conditions, under Section(s) 240-3C of the Code of Falmouth, for 154 Edgewater Drive E, East Falmouth, Massachusetts (the "Premises"), to allow construction of a replacement 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 – Proposed House Reconstruction", prepared by Falmouth Engineering, 17 Academy Lane, Suite 200, Falmouth, MA, dated March 29, 2019
 - "Front Elevation", "Rear Elevation", "Left Elevation", "Right Elevation", "Foundation Plan", "First Floor Plan", "Section AA", and "Section BB", all prepared by Frank D. Ciambriello, 302 Setucket Road, Dennis, MA, dated 12/18
2. The bedroom count is limited to three with the current cesspool. A reserve septic area must be shown on the plans.
3. The Applicant shall submit an As-Built plan to the Zoning Board of Appeals.

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: 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, Member, Zoning Board of Appeals

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JUL 1, 2019 PM 2:42
TOWN CLERK 

Date Filed With Town Clerk