



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO.: 027 -19

APPLICANT/OWNER: Barbara and Joseph Susi
42 Rosemary Street, Norwood, Massachusetts

SUBJECT PROPERTY: "0" Wild Harbor Road (Lot 18), North Falmouth, Massachusetts
Assessor's Map: Map 04, Section 05, Parcel 018A, Lot 018

DEED/CERTIFICATE: Book 24757, Page 214

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. On April 30, 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 a single family dwelling, exceeding 20% lot coverage by structures, at "0" (Lot 18) Wild Harbor Road, North 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 27, 2019, at which hearing, relevant testimony was heard.

5. Laura M. Moynihan Esq., 17 Academy Lane, Suite 1, Falmouth, MA appeared before the Board, representing Barbara and Joseph Susi, 42 Rosemary Street, Norwood, Massachusetts (the "Applicant"), as to "O" (Lot 18) Wild Harbor Road, North Falmouth, MA. Ms. Moynihan discussed the request for special permit with the Board.

6. The public hearing was closed on June 27, 2019, wherein the Zoning Board of Appeals, consisting of Kenneth H. Foreman, Acting Chairman, Edward Van Keuren, Member, Robert B. Dugan, Acting Clerk, Gerald Potamis, Member, and Mary Barry, Associate 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 Joseph R. Susi, dated April 11, 2019
- "Lot Coverage Analysis – 0 Wild Harbor Road (Susi)", with 13 neighboring properties' records, date stamped received Apr 30, 2019

Letters/E-mails from Abutters/Interested Parties:

- Form support letter, signed by
 - Louis T. Falcone, Jr., Trustee, 63 Grove Street 20 Cove Road, and 30 Cove Road, dated June 26, 2019
 - Paula Anselone, 33 Cove Road, dated June 19, 2019
 - Kevin P. and Lorraine S. Foley, 25 Cove Road, dated June 19, 2019
 - Pam and John Gross, 19 Cove Road, dated June 19, 2019
 - John and Kathy Farese, 354 Wild Harbor Road, dated June 19, 2019
 - Jill Duggan, 370 Wild Harbor Road, dated June 19, 2019
 - Daniel Kelly, 65 Grove Street, dated June 19, 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 5/28/19 (must file for driveway permit; connections or alterations to public utilities will require proper permission; no stormwater runoff)
- Conservation Commission, dated 6/3/19 (property in AE15 Flood Zone; requires filing with Conservation Commission)
 - Administrative Review Decision signed and dated 6/19/19
- Board of Health, comments, dated 5/3/19, (septic system plan adequate for 4-bedroom dwelling)
- Water, requires application for new water service, dated 5/3/2019
- Assessors, no comments, dated 5/6/19
- Fire Department, no comments, dated 5/2/19
- Planning, no comments, dated 5/1/19

Plans submitted by Applicant/Applicant's Representative

- "Lot 18 Wild Harbor Road, in Falmouth, Massachusetts, Proposed Site and Septic Design", prepared by Cape & Islands Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA, 4/3/2019, rev. dated 6/10/19
- "Proposed Designs for the Susi Residence", including "First Floor Plan, A1.1", "Second Floor Plan, A1.2", "Elevations, A2.1", "Elevations, A2.2", and "Lot Coverage Calculations, Z1.1", all prepared by HPA Design, Inc. Architects, 35 Main Street, Milford, MA, rev. dated 4/9/19

June 27, 2019

Hearing:

Attorney Laura Moynihan appeared before the Board, representing the Applicants, and explained that the lot is vacant; the Applicants seek to build a new house. The as-of-right lot coverage is 20%, and this application requests a special permit under 240-69E, for lot coverage by structures up to 25%. The Premises consists of 10,156 square feet of area, and is in the AE 15 flood zone. The first floor elevation has been brought up slightly. The proposed dwelling will not have a basement, and the height is proposed to be 32 feet, 6 inches from average grade. The Conservation Commission has administratively approved the proposal. The dwelling will be a 4-bedroom house, and lot coverage calculations were submitted to show neighborhood comparisons. Ms. Moynihan also showed the Board photographs of neighboring dwellings. The area is zoned Single Residence C. The percentage of lot coverage by structures is 24.6%; lot coverage exceeds 20% due to the porch and garage.

Acting Chairman Foreman 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. Mr. Foreman 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 10,156 square feet of area. The proposed lot coverage is 24.6%. Lot coverage by structures is allowed up to 25%, by Special Permit. The proposed lot coverage by structures/parking/paving is 34 %. 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 10,156 square feet of area, and lot coverage by structures is proposed to be 24.6%. This lot coverage is within the range of area properties reported, where 8 other properties exceed 20% lot coverage.
- 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, and there were letters of support entered into the record.
- 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 32 feet, 6 inches in height, which is below the By-Law maximum of 35 feet.
- E. There will be no impact on sewage disposal, source of water, and drainage; the construction includes plans for a 4-bedroom septic system. The Applicant will comply with any 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 May 1, 2019.
- I. The application is in compliance with all applicable sections of the Zoning By-Laws as represented, except for any 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 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. Dugan, and seconded by Mr. Van Keuren, to grant a special permit, with conditions, under Section(s) 240-69 E of the Code of Falmouth, for "O" (Lot 18) Wild Harbor Road, North Falmouth, Massachusetts (the "Premises"), to allow construction of a dwelling, exceeding 20% lot coverage by structures. 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:
 - "Lot 18 Wild Harbor Road, in Falmouth, Massachusetts, Proposed Site and Septic Design", prepared by Cape & Islands Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA, 4/3/2019, rev. dated 6/10/19

- “Proposed Designs for the Susi Residence”, including “First Floor Plan, A1.1”, “Second Floor Plan, A1.2”, “Elevations, A2.1”, “Elevations, A2.2”, and “Lot Coverage Calculations, Z1.1”, all prepared by HPA Design, Inc. Architects, 35 Main Street, Milford, MA, rev. dated 4/9/19
2. The bedroom count is limited to four, as approved by Board of Health.
 3. The dwelling shall be sited 25 feet from the north (street) lot line, 11 feet from the east, 20 feet from the south, and 30 feet from the west side lot lines. The dwelling shall be 32 feet, 6 inches in height.
 4. The Applicant shall submit an As-Built plan to the Zoning Board of Appeals. There shall be no sheds.
 5. The Applicant shall obtain an approved driveway permit, and post any required bond with the Engineering Division prior to the start of construction, and complete work as approved.
 6. Project must not direct stormwater runoff on to public or private properties.
 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

Falmouth Zoning Board of Appeals

RECEIVED
JUL 11, 2019 PM 4:20
TOWN CLERK

Date Filed With Town Clerk