



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO: 044-19

APPLICANT/OWNER: William F. Roslansky

26 Albatross Street, Woods Hole, Massachusetts

SUBJECT PROPERTY: 26 Albatross Street, Woods Hole, Massachusetts

Assessor's Map: Map 49A Section 02 Parcel 000D Lot 022

DEED/CERTIFICATE: Book 19519 Page 0301

SUMMARY: Special Permit granted, with conditions

PROCEDURAL HISTORY

1. On June 27, 2019, an application was filed with the Zoning Board of Appeals for a Special Permit, pursuant to Section(s) 240-3 C of the General Code of the Town of Falmouth, to construct a second story over the northerly portion of dwelling at 26 Albatross Street, Woods Hole, 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 most recent tax list.
3. There was no previous Zoning Board of Appeals case for the Premises.
4. The advertised public hearing was opened on August 22, 2019. Board members present included Terrence J. Hurrie, Kenneth H. Foreman, Robert B. Dugan, Edward Van Keuren, Mary Barry and James Morse.

5. William Roslansky, 26 Albatross Street, Woods Hole, Massachusetts, property owner and architect, appeared before the Board.

6. The public hearing was closed on August 22, 2019, following motion made by Mr. Foreman, seconded by Mr. Van Keuren, and unanimously voted. 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)

- William Roslansky, property owner, submitted an application, plans and filing fee

Letters/Referrals/E-mails from Town Departments

- Email dated June 27, 2019 from Amy Lowell, Wastewater Superintendent – no comment
- Referral dated July 1, 2019 signed by Health Agent, Scott McGann – *On sewer, refer to Amy Lowell's comments*
- Referral dated June 28, 2019 from the Planning Department – no comment
- Referral dated July 2, 2019 from the Falmouth Fire Department – no comment
- Referral dated July 2, 2019 from the Assessing Department – no comment
- Referral dated July 26, 2019 from the Engineering Department – standard comments with a note stating: *We recommend that the Board add a condition that requires the addition of dry wells, rain garden, or other stormwater measure for the roof area.*

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

Letters/E-mails from Abutters/Interested Parties

None

Plans submitted by Applicant/Applicant's Representative

- 'Certified Plot Plan', proposed addition for 26 Albatross Street, Woods Hole – Falmouth, Mass. Dated April 4, 2003, with a final revision date of June 6, 2019;
- 'Roslansky Existing – Floor Plans', 26 Albatross St., Woods Hole, Ma, dated April 4, 2019 sheet A-1, not authored;
- 'Elevations' Roslansky Existing, 26 Albatross Street, Woods Hole, dated April 9, 2019 as drawn by William F. Roslansky, Architect, 26 Albatross Street, Woods Hole, Massachusetts 02543;
- 'Roslansky Addition' 26 Albatross St., Woods Hole, Ma, dated April 16, 2019 sheet A-1, not authored; and
- 'Elevations' Roslansky Addition, 26 Albatross Street, Woods Hole, dated April 16, 2019 as drawn by William F. Roslansky, Architect, 26 Albatross Street, Woods Hole, Massachusetts 02543

August 22, 2019 Hearing:

The Notice of Hearing and referrals were read into the record.

Appearing before the Board was William Roslansky, 26 Albatross Street, Woods Hole, Massachusetts owner, who stated that he seeks to add a second story above the existing single story structure, at the northerly side of the dwelling, to allow expansion of an existing bedroom. The expansion will comprise an area of approximately 16.5 feet by 12.4 feet. The dwelling will remain as four bedrooms. There will be no change to the front, or southerly side, of the dwelling. The lot coverage by structures is currently 30.7%, and will increase only slightly to 31%, due to an overhang.

No one further appeared on the petition.

Following motion made by Mr. Foreman, seconded by Mr. Van Keuren, and unanimously voted, the hearing was closed, and the Board proceeded to deliberate.

Findings:

The subject site, 26 Albatross Street, Woods Hole, Massachusetts (the "Premises") is sited in the Public Use Zoning District. The Premises comprises 6,000 square feet of area, in a district requiring a minimum of 45,000 square feet. The Premises has 60 feet of street frontage in a district requiring a minimum street frontage of 100 feet. The Premises is improved by a single family dwelling, built circa 1890, a detached garage, and a shed. The dwelling is sited 6.21 feet from the street, 2.87 feet from the east, 48.23 feet from the northwest, and 21.8 from the west. The Premises is also improved by a 10.8-foot by 18.3-foot garage, sited approximately 1 foot from the east, and a 12.3-foot by 32.8-foot shed, sited approximately 2 feet from the east, and 2.01 feet from the north. The dwelling is nonconforming due to encroachments into the street and easterly side setbacks. The garage encroaches into the easterly side setback, and the shed encroaches into the easterly and northerly side yard setbacks. The proposal involves the construction of a second story, above an existing area of the dwelling which encroaches into the easterly side lot line.

There was no previous Zoning Board of Appeals Decision.

In addition to the above findings, the Board finds that the proposed dwelling 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 General Code of Falmouth, as follows:

- A. The site is adequate, in terms of size, for the proposed use, comprising 6,000 square feet of area. The lot coverage by structures will be 31%, where the By-Law limit is 40 %; the lot coverage by structures/parking/paving will be 40.6 %, where the By-Law limit is 70 %.
- B. The site is suitable for the proposed use, as the property is zoned Public Use, with neighboring dwellings and businesses. 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 second story will be no closer to the easterly side lot line than the existing dwelling.

- E. There will be no impact on sewage disposal, source of water related to the addition, as it involves the expansion of an existing bedroom.
- F. Utilities and public services are adequate.
- G. The construction discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.
- H. No Site Plan Review was required, and the Planning Board issued no comment.
- I. The application is in compliance with all applicable sections of the Zoning By-Laws as represented.
- 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 special permit outweigh any negative effects there may be. The Board further found that the granting of this special 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, and will not nullify or substantially derogate from the intent of purpose of the By-Law.

NOW THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals, being of the opinion aforesaid, and acting under Section(s) 240- 3 C of the General Code of Falmouth, following a motion made by Mr. Dugan, and seconded by Mr. Van Keuren, voted 5 to 0 to grant a special permit, for a 16.5-foot by 12.4-foot second story addition above the existing single story structure, at the northerly side of the dwelling at 26 Albatross Street, Woods Hole, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

1. The construction shall be as represented to the Board, and as shown on plans submitted and reviewed by the Board, entitled as follows:
 - 'Certified Plot Plan' proposed addition for 26 Albatross Street, Woods Hole – Falmouth, Mass. Dated April 4, 2003 with a final revision date of June 6, 2019;
 - 'Roslansky Existing – Floor Plans' 26 Albatross St., Woods Hole, Ma, dated April 4, 2019 sheet A-1, not authored;
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2. Any new exterior lighting shall be dark sky compliant, and shall not shed lighting off the Premises, in order to not adversely impact abutters.
3. The lot coverage by structures will be 31 %.

4. The Applicant shall work with Town Engineering to provide for sufficient stormwater management for the addition.
5. The height of the dwelling shall remain at 23 feet.
6. Any deviation, no matter how minor, from plans submitted and approved by this Board, shall be submitted to the Board for approval, prior to implementation of said change. The Zoning Administrator may make a determination as to whether the changes are minor in nature, and can be approved administratively, or whether they will require a hearing for an amendment. Changes made prior to an approval may be subject to a full hearing, and are at risk that the ZBA may deny the request, subjecting any unapproved construction be ordered undone.
7. 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, or an appeal has been filed within such time, is recorded in Barnstable Registry of Deeds. (Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.)
8. This special 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.
9. The Zoning Board of Appeals reserves the right to recall the Applicant, with such notice as the Board deems proper, to discuss any unresolved matters of concern.

Action: The Zoning 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.



Edward Van Keuren, Zoning Board of Appeals

RECEIVED

SEP 13, 2019 AM 11:26
TOWN CLERK

Date Filed With Town Clerk