



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO: 046-19

APPLICANT/OWNER: Walmart Store, Inc. / OCW Retail – Falmouth LLC, The Wilder Companies
800 Boylston Street, Suite 300, Boston, Massachusetts

SUBJECT PROPERTY: 137 Teaticket Highway, Teaticket, Massachusetts
Assessor's Map: Map 39 Section 15 Parcel 044 Lot 000

DEED/CERTIFICATE: Book 22007 Page 0294

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. On July 3, 2019, an application was filed with the Zoning Board of Appeals for a Special Permit, pursuant to Section(s) 240-160 A of the General Code of the Town of Falmouth, to allow four 40-foot seasonal storage trailers at 137 Teaticket Highway, 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. The previous Zoning Board of Appeals case for the Premises involved an Administrative Approval, dated October 16, 2018 for four, 40-foot seasonal trailers to be sited on 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. Danielle Smith, General Manager for Walmart, 137 Teaticket Highway, Teaticket, Massachusetts appeared before the Board, as representative for the owner/applicant.
6. The public hearing was closed on August 22, 2019, following motion made by Mr. Van Keuren, seconded by Mr. Dugan, and unanimously voted. Minutes of the hearing(s) are on file in the Board of Appeals.

Findings:

The subject site, 137 Teaticket Highway, Teaticket, Massachusetts (the "Premises") is sited in the Business 2 Zoning District and the Little Pond Coastal Pond Overlay District. The Premises comprises multiple businesses, including Walmart, Michaels, Shaws, TJ Maxx, and Homegoods, with Walmart sited at the southerly end of the bank of businesses. The Premises has previously been approved for seasonal trailers, to be parked at the southeast end of the parking lot.

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 Code of Falmouth, as follows:

- A. The site is adequate, in terms of size, for the proposed use, with ample parking for the five businesses, and the four temporary 40-foot long trailers.
- B. The site is suitable for the proposed use, as the property is zoned Business 2, with neighboring businesses and associated parking.
- C. There will be no impact on traffic flow and safety, given that the trailers will be parked at the end of the lot, locked, and monitored by security cameras.
- D. There will not be any lasting impact on the visual character of the neighborhood, or view or vista from the roadway or abutting properties, given that the trailers will be temporary for the Christmas season, and will be sited away from the residential area.
- E. There will be no impact on sewage disposal, source of water.
- F. Utilities and public services are adequate.
- G. The proposal 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 temporary trailers 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- 160 A 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 four 40-foot seasonal trailers, to be parked at the southeast end of the parking lot, at 137 Teaticket Highway, Teaticket, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

1. The temporary trailers shall be sited as represented to the Board, and as shown on plans submitted and reviewed by the Board, entitled as follows:
 - Two (2) pictures – Valtran Mobile Storage containers; date stamped received Jul 03, 2019
 - Map of property showing location of proposed trailers, date stamped received Jul 03, 2019
2. The temporary trailers shall remain locked, and protected by security cameras.
3. 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.
4. 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.)
5. This special permit shall lapse one (1) year 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.
6. 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. The Zoning Administrator has the authority to reissue the permit at that time, absent complaints.

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.



 Terrence J. Hurrie, Zoning Board of Appeals

RECEIVED
 SEP 20, 2019 AM 8:50
 TOWN CLERK

 Date Filed With Town Clerk