



TOWN OF FALMOUTH  
ZONING BOARD OF APPEALS  
AMENDMENT

SPECIAL PERMIT NO: 057-19  
APPLICANT/OWNER: Robert C. Bullock and Janice M. Bullock, Trustees of the Robert C. Bullock Revocable Trust  
P.O. Box 522, West Kingston, Rhode Island  
SUBJECT PROPERTY: 66 Silver Beach Avenue, North Falmouth, Massachusetts  
Assessor's Map: Map 04A, Section 44, Parcel 000 Lot 392  
DEED/CERTIFICATE: Book 29350, Page 327  
SUMMARY: Special Permit granted, with conditions

PROCEDURAL HISTORY

1. On August 20, 2019, an application was filed with the Zoning Board of Appeals for a Special Permit, pursuant to Section(s) 240-3 C and 240-69. E. of the General Code of the Town of Falmouth, to allow reconstruction of the nonconforming dwelling, at 66 Silver Beach Avenue, 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 were no previous Zoning Board of Appeals cases for the Premises.
4. The advertised public hearing was opened on September 19, 2019. Board members present included Terrence J. Hurrie, Kenneth H. Foreman, Robert B. Dugan, Edward Van Keuren, and Mary Barry.
5. Attorney Kevin P. Klauer, II, Ament Klauer LLP, 39 Town Hall Square, Falmouth, MA, appeared before the Board on the application.
6. The public hearing was closed on September 19, 2019, following motion made by Mr. Dugan, 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)

- Authorization for representation, by Robert C. Bullock and Janice M. Bullock, dated July 26, 2019
- August 15, 2019 letter from Kevin P. Klauer, II.

- “Lot Comparison Worksheet, 66 Silver Beach Ave.”, date stamped received Aug 20, 2019

Letters/Referrals/E-mails from Town Departments

- Referral from the Planning Department, dated August 23, 2019 – no comment
- Referral from the Board of Health, dated August 21, 2019 – three bedroom house, no increase in flow
- Referral from the Assessing Department, dated 9/22/19 (sic)– no comment
- Referral from the Fire Department dated August 22, 2019 – no comment
- Referral from the Water Department dated August 23, 2019 – requires service upgrade to 1-inch
- Referral from the Building Department dated August 20, 2019 – no comment
- Referral from the Engineering Department, dated September 17, 2019, signed by Scott Schluter, PE with standard comments and a note recommending that the Board add a condition that requires the addition of dry wells, rain garden, or other stormwater measure for roof runoff. Stormwater must not directed off the property.
  - Referral from the Conservation Commission, dated September 16, 2019: control stormwater on property, such as gutters to drywells

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

- “Existing House, 66 Silver Beach Ave, North Falmouth”, floor plan drawn by owner, date stamped Aug 20, 2019
- “Plot Plan – Proposed House”, prepared by BSS Design Engineering & Surveying, 164 Katharine Lee Bates Road, Falmouth, MA, dated Aug 1, 2019
- “Foundation Plan, page 1”, “First Floor Plan, page 2”, “Second Floor Plan, page 3”, “Front Elevation, page 4”, “Rear Elevation, page 5”, “Right Elevation, page 6”, “Left Elevation, page 7”, and “Kitchen Plans, page 8”, all prepared by Southeastern Development Co., P.O. Box 1252, Marion, MA, rev. dated 7-22-19

September 19, 2019 Hearing:

Kevin P. Klauer, II appeared before the Board, representing Robert C. Bullock and Janice M. Bullock, Trustees of the Robert C. Bullock Revocable Trust, P.O. Box 522, West Kingston, Rhode Island, property owners of 66 Silver Beach Avenue, North Falmouth, Massachusetts (the “Applicant”). The Premises comprises 4,514 square feet of area, is located in the Single Residence C zoning district, and the Wild Harbor Coastal Pond Overlay District. The existing dwelling is nonconforming, as it is sited 16.8 feet from Silver Beach Avenue (north), where 25 feet is the minimum required. There is also a 10-foot by 12-foot shed sited approximately 3 feet from the east, where 10 feet is required. The dwelling will be 10.5 feet from the east, 10.5 feet from the west, and approximately 42 feet from the south. The new septic system will be located south of the new dwelling. The height of the structure will change from 14 feet, 3 inches to 28 feet, and will contain three bedrooms. The lot coverage by structures will be increasing from 17.57% to 24.32%. Lot coverage by structures/parking/paving is increasing from 24.75% to 31.5%.

Findings:

The subject site, 66 Silver Beach Avenue, North Falmouth, Massachusetts (the “Premises”) is sited in the Single Residence C Zoning District and the Wild Harbor Coastal Pond Overlay District, and is within a neighborhood of single family dwellings. The existing dwelling is nonconforming, in that it is sited 16.8 feet from the street. The proposed

reconstructed dwelling will remain at 16.8 feet from the street, but will conform on the east, west, and south sides. The nonconforming shed will be replaced by a conforming shed. The dwelling shall comprise three bedrooms, and will be 28 feet in height. The lot coverage by structures will be 24.32%. Lot coverage by structures/parking/paving will be 31.5%.

In addition to the above findings, the Board finds that the proposed addition 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, comprising 4,514 square feet.
- B. The site is suitable for the proposed use, as the property is zoned Single Residence C, with similarly sized neighboring dwellings.
- C. There will be no impact on traffic flow and safety, given that the reconstruction will maintain the present setback from the road.
- 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 dwelling is a replacement, and will be within the 35-foot height limit, at 28 feet in height.
- E. There will be no impact on sewage disposal, source of water, where the dwelling is on a septic system, and will comprise three bedrooms.
- F. Utilities and public services are adequate, and will be upgraded.
- 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 reconstruction of the dwelling 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 and 240-69 E. 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 the replacement dwelling, at 66 Silver Beach Avenue, North Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

1. The construction shall be as shown on the plans:
  - "Existing House, 66 Silver Beach Ave, North Falmouth", floor plan drawn by owner, date stamped Aug 20, 2019
  - "Plot Plan – Proposed House", prepared by BSS Design Engineering & Surveying, 164 Katharine Lee Bates Road, Falmouth, MA, dated Aug 1, 2019
  - "Foundation Plan, page 1", "First Floor Plan, page 2", "Second Floor Plan, page 3", "Front Elevation, page 4", "Rear Elevation, page 5", "Right Elevation, page 6", "Left Elevation, page 7", and "Kitchen Plans, page 8", all prepared by Southeastern Development Co., P.O. Box 1252, Marion, MA, rev. dated 7-22-19

2. The dwelling shall be limited to three bedrooms.
3. A final As-Built shall be provided to the Zoning Board of Appeals, to confirm conformance with setbacks.
4. The Applicant shall provide for dry wells, rain garden, or other stormwater measure for roof runoff, as approved by Town Engineering. Any change to the driveway will require permitting through Engineering.
5. 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.
6. 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.)
7. This special permit shall lapse three 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.
8. 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  
OCT 4, 2019 AM 8:38  
TOWN CLERK

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Date Filed With Town Clerk