



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

CASE NO: 064-19

APPLICANT/OWNER: Carol J. and John D. Greeley, 29 Hudson Street, Falmouth, Massachusetts

SUBJECT PROPERTY: 29 Hudson Street, Falmouth, Massachusetts (the "Premises")

Assessor's Map: Map 46 Section 00F Parcel 000 Lot 006

DEED/CERTIFICATE: Book 22351, Page 0127

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. On September 17, 2019, an application was filed with the Zoning Board of Appeals requesting 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 an addition and partial demolition at 29 Hudson Street, 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 November 7, 2019. Board members present included Terrence J. Hurrie, Kenneth H. Foreman, Robert B. Dugan, Edward Van Keuren, and Mary Barry.
5. Gregory Jones, project architect, 31 High Street, Dartmouth, MA appeared before the Board on the application.

6. The public hearing was closed on November 7, 2019, following motion made by Mr. Foreman, seconded by Mr. Van Keuren, and unanimously voted. Minutes of the hearing(s) are on file with the Zoning 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)

- Email letter from Carol Greeley, providing authorization for Gregory Jones to represent her, dated July 18, 2019
- "29 Hudson St., Lot Coverage/Bulk Calculations Worksheet", date stamped received Sep 17, 2019
- Two photos of existing dwelling, dated 9/16/2019

Letters/Referrals/E-mails from Town Departments

- Referral dated October 17, 2019 from the Conservation Commission: no comment
- Referral dated September 19, 2019 from the Fire Department – no comment
- Referral dated September 18, 2019 from the Planning Department – no comment
- Referral date stamped received Sep 20, 2019 from Assessing – no comments
- Referral dated October 3, 2019 from the Engineering Department signed by Scott Schluter, PE: stormwater must not be directed off site; require approved driveway permit plus bond; must post address on dwelling; provide stormwater mitigation for minimally new roof area; provide plan to show limit of work line plus erosion and sediment control measures
- Referral dated September 18, 2019 from Wastewater Superintendent, property is in LPSSA, and has a grinder pump, which needs to be protected during construction. Design shows 3 bedrooms.

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

- "Plan of Proposed Addition, prepared for Carol Greeley, for Lot 6, #29 Hudson Street, Falmouth Heights, MA, prepared by Holmes and McGrath, 205 Worcester Court, Suite A4, Falmouth, MA, dated Sep. 16, 2019
- "Proposed Renovation/Addition to the Greeley Residence, 29 Hudson Street, Falmouth, MA, prepared by Gregory Jones – Architect, 31 High Street, South Dartmouth, MA, including sheets ex-01, sk-01 and sk-02, dated September 16, 2019
- "29 Hudson St., Lot Coverage/Bulk Calculations Worksheet", date stamped received Sep 17, 2019

Hearing:

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

Appearing before the Board was Gregory Jones, architect, representative for Carol J. and John D. Greeley, 29 Hudson Street, Falmouth, Massachusetts (the "Applicants"). Mr. Jones stated that the proposal is to bump out the southerly side of the westerly façade of the dwelling by 5 feet, and to bump out the northerly façade of the southerly side by seven feet, toward the north. The Premises is nonconforming with a lot coverage by structures of 24.7%, where 20% is allowed by right. Mr. Jones stated that they will also be removing the deck towards the rear (easterly side) of the house, which will decrease the lot coverage by 2%. The area of the addition will provide the owners with an additional bedroom, resulting in three bedrooms.

There were no comments from the public. Mr. Foreman made a motion to close the hearing, which was seconded by Mr. Van Keuren, and unanimously voted.

Findings:

The subject property, 29 Hudson Street, Falmouth, Massachusetts (the "Premises") is located in the Single Residence C zoning district, and the Little Pond Coastal Pond Overlay District. The proposal involves bumping out the southerly side of the dwelling toward the north and west. The easterly deck will be removed. The existing lot coverage by structures is 24.2%, which will be decreased to 22.2%. The lot coverage by structures/parking/paving is currently 36.7%, which will be decreased to 34.3%. Bulk calculations were submitted to demonstrate that lot coverage lies within the neighborhood.

The Premises is connected to the Little Pond Sewer Service Area, and will comprise a three-bedroom house; the Flow Neutral By-Law is not triggered. The proposal involves removing the rear (easterly side) deck, which with the new construction will result in a net reduction in lot coverage by structures and total lot coverage. The existing nonconformity is the lot coverage exceeding 20%. The lot coverage with the special permit will remain below 25%, which is the maximum allowed. The new construction will comply with setback requirements. The Applicant shall be required to address Engineering comments, and shall post the dwelling number on the dwelling.

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, comprising 11,813 square feet of area.
- B. The site is suitable for the proposed use, as the property is zoned Single Residence C, with similar sized neighboring lots, and single family dwellings.
- C. There will be no impact on traffic flow and safety, given that the proposal is for a bump out to the existing dwelling.
- 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 work consists of a 5-foot bump out of the dwelling toward the street, to enlarge the master bedroom. There will be no change in the height of the dwelling. No abutters appeared in opposition to the proposal.
- E. The Premises is located in the Little Pond Sewer Service Area, and the grinder pump will need to be protected during construction; three bedrooms will not trigger Flow Neutral By-Law.

- F. Utilities are appropriate for the proposed construction.
- 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, 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 replacement 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 or 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, which was seconded by Mr. Van Keuren, and unanimously voted, for the addition to the dwelling at 29 Hudson Street , Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

Conditions:

1. The construction shall be as shown on the plans:
 - "Plan of Proposed Addition, prepared for Carol Greeley, for Lot 6, #29 Hudson Street, Falmouth Heights, MA, prepared by Holmes and McGrath, 205 Worcester Court, Suite A4, Falmouth, MA, dated Sep. 16, 2019
 - "Proposed Renovation/Addition to the Greeley Residence, 29 Hudson Street, Falmouth, MA, prepared by Gregory Jones – Architect, 31 High Street, South Dartmouth, MA, including sheets ex-01, sk-01 and sk-02, dated September 16, 2019
 - "29 Hudson St., Lot Coverage/Bulk Calculations Worksheet", date stamped received Sep 17, 2019
2. The bump out addition shall be sited 12 feet from the south side lot line, and 40 feet from the street line. The existing height will remain at 19 feet, 10 inches. The lot coverage by structures will be 22.2%. The lot coverage by structures/parking/paving will be 34.3%.
3. Abide by Town Engineering requirements, where
 - a. No stormwater may be directed off the Premises.
 - b. The Applicant shall obtain an approved Driveway Permit, and post any required bond with the Engineering Division prior to the start of construction, and shall complete the work as approved.
 - c. Submit plans to Engineering to include a demarcated limit of work, and erosion and sediment controls for their approval.
 - d. Install dry wells, or other stormwater mitigation for new roof area
 - e. Affix legible street number on dwelling, per §99-1

4. The owner shall submit a final As-Built to the Zoning Board of Appeals prior to the Certificate of Occupancy.
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.

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.

The Zoning Board of Appeals, by the signature below, certifies the vote of the Board:



Robert B. Dugan, Falmouth Zoning Board of Appeals

RECEIVED

DEC 20, 2019 PM 2:25

TOWN CLERK

Date Filed With Town Clerk