



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

CASE NO: #076-19

APPLICANT/OWNER: William H. and Lynne C. Faulkner
179 Brewster Avenue, Braintree, Massachusetts

SUBJECT PROPERTY: 18 Fenwick Road, East Falmouth, Massachusetts

Assessor's Map: Map 41 Section 06 Parcel 000 Lot 073

DEED/CERTIFICATE: Book 11574 Page 218

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. On October 31, 2019, an application was filed with the Zoning Board of Appeals requesting a Special Permit, pursuant to Section(s) 240-3 C. and 240-68 D. of the General Code of the Town of Falmouth, to construct a screened porch plus addition at 18 Fenwick Road, East 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 December 5, 2019. Board members present included Terrence J. Hurrie, Kenneth H. Foreman, Robert B. Dugan, Edward Van Keuren, and Gerald Potamis.

5. Thomas Bunker, BSS Design, Inc., 164 Katharine Lee Bates Road, Falmouth, Massachusetts, appeared before the Board, representing the Applicant.

6. The public hearing was closed on December 5, 2019, following a motion made by Mr. Potamis, seconded by Mr. Foreman, 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)

- Thomas Bunker, Project Engineer , submitted application, owner authorization letter and appropriate plans

Letters/Referrals/E-mails from Town Departments

- Referral from Planning dated November 1, 2019 – no comment
- Referral from Fire Department dated November 4, 2019 – no comment
- Referral from Assessor’s dated November 12, 2019 – no comment
- Referral from Engineering dated November 15, 2019 signed by Scott Schluter with standard comments and: Drywells are shown on this plan. It isn’t clear if these will serve the new roof areas. *We recommend that a condition be added to any approval clearly stating that all roof storm water runoff shall be diverted to drywells, rain gardens, or other storm water infiltration measure. We recommend the following condition be included in any approval – “Construction of this project shall follow the attached “Soil Erosion & Sediment Control Standard Conditions” document. References to the “Department of Public Works Engineering Division” shall be replaced with “Zoning Board of Appeals” who is the permit granting authority. In the event of conflict with any Conservation Commission requirements, the Conservation Commission requirements shall prevail.” We recommend the following condition be included in any approval (or similar): “Upon completion of construction, the Applicant shall post the address for this residence per §99-1 Affixing of legible numbers required; time limit for compliance.”*
- Referral from Health dated November 18, 2019 signed by Scott McGann, Health Agent that states: No problems, no increase in flow proposed(2 bedrooms), addition not encroaching on septic, reserve shown for future septic replacement

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

- ‘Plot Plan – Proposed Addition’ at 18 Fenwick Road, East Falmouth, Massachusetts prepared for Lynne Faulkner with a plan date of October 23, 2019 and a final revision date of November 11,

2019 as drawn by BSS Design Engineering and Surveying, 164 Katharine Lee Bates Road, Falmouth, Massachusetts 02540 ; and

- 'Faulkner House Remodel – Existing, First Floor Plan', 'Basement/Crawl Space Plan', 'Front/Back Elevation', 'Right/Left Side Elevation', 'Proposed – First Floor', 'Basement/Crawl Space Plan', 'Front/Back Elevation', 'Right/ Left Side Elevation' 18 Fenwick Road, Falmouth, Ma; as drawn by Denise D'Ambrosi Bonoli, plans are not dated, all plans have a Board 'received' stamp of November 12, 2019

Hearing:

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

Appearing before the Board was Thomas Bunker, who reported that the existing dwelling comprises two bedrooms, and was constructed in 1949. He stated that the dwelling is sited 41.4 feet from the 3-foot National Geodetic Vertical Datum (NGVD) contour line, rendering the dwelling nonconforming, where the minimum required setback is 50 feet. The proposal involves constructing a screened porch addition at the area of the existing patio, on the southerly side of the dwelling, and constructing an addition on the easterly side of the dwelling. The dwelling will be sited 25.6 feet from the southerly street lot line, and 10.7 feet from the easterly side lot line, in compliance with the minimum required setback of 25 feet and 10 feet respectively. The lot coverage by structure will increase from 7.3% to 16.23%, which is below the 20% lot coverage limit of the By-Law. The dwelling will remain as a two-bedroom structure.

There was no public comment.

Mr. Potamis made a motion to close the hearing, which was seconded by Mr. Foreman, and unanimously voted. The Board proceeded to deliberate.

Findings:

The subject property, 18 Fenwick Road, East Falmouth, Massachusetts (the "Premises"), comprises 10,450 square feet of area above the high water line, and is located in the Single Residence C zoning district, within a VE 14 and AE 12 flood zone, as well as the Waquoit Bay Coastal Pond Overlay District. The dwelling complies with district setbacks, with the exception of being sited 41.4 feet from the 3-foot NGVD contour line, where the minimum required setback is 50 feet. That dimension will not be exacerbated by the patio replacement, where the screened porch will be 43 feet from the 3-foot NGVD contour line. The former bedroom # 2 will be converted to a den, and is shown on the plans to have a 5-foot opening. The new bedroom # 2 will be within the easterly addition, which will also include a bathroom, mudroom/laundry, and kitchen expansion. The building height will be 14 feet, 6 inches. The lot coverage by structures will be increased to 16.23%, and the lot coverage by structures/parking/paving will be increased to 16.29%.

The project was issued an Order of Conditions by the Conservation Commission on November 27, 2019.

The Board of Health has determined that the dwelling will remain within the limit of two bedrooms, and that there is reserve space identified for a future septic replacement.

Town Engineering has directed that no stormwater be directed off the Premises, and that all roof runoff be diverted to proper stormwater infiltration methods. Construction must also comply with the Conservation Commission requirements, and that the address be properly posted 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.

The Zoning Board of Appeals weighed the effects of the screened porch and 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 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 240-68 D of the General Code of Falmouth, following a motion made by Mr. Potamis, and seconded by Mr. Van Keuren, voted unanimously, to grant a special permit, for the screened porch and addition at 18 Fenwick Road, East Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

Conditions:

1. The construction shall be as shown on the plans:

- 'Plot Plan – Proposed Addition' at 18 Fenwick Road, East Falmouth, Massachusetts prepared for Lynne Faulkner with a plan date of October 23, 2019 and a final revision date of November 11, 2019 as drawn by BSS Design Engineering and Surveying, 164 Katharine Lee Bates Road, Falmouth, Massachusetts 02540 ; and
- 'Faulkner House Remodel – Existing, First Floor Plan', 'Basement/Crawl Space Plan', 'Front/Back Elevation', 'Right/Left Side Elevation', 'Proposed – First Floor', 'Basement/Crawl Space Plan', 'Front/Back Elevation', 'Right/ Left Side Elevation' 18 Fenwick Road, Falmouth, Ma; as drawn by Denise D'Ambrosi Bonoli, plans are not dated, all plans have a Board 'received' stamp of November 12, 2019

2. The 15.5-foot by 23-foot screened porch on the south, and the 40.5-foot by approximately 14.5-foot addition to the easterly side of the dwelling will be 14 feet, 6 inches in height, and shall result in lot coverage by structures of 16.23%, and lot coverage by structures/parking/paving of 16.29%.

3. The Applicant shall comply with Town Engineering requirements that no stormwater is directed off the Premises, and that all new stormwater is recharged within the Premises. Construction shall be in compliance with "Soil Erosion & Sediment Control Standard Conditions" (9-2019), unless there is a conflict with the requirements of the Conservation Commission, where the requirements of the Conservation Commission shall control.

4. The Applicant shall comply with Conservation Commission requirements, and any other department having jurisdiction over the proposal.

5. The Premises is limited to two bedrooms with the current septic system. The former second bedroom shall be converted to a den, with a 5-foot opening. The Applicant shall provide a recorded copy of this Decision to the Board of Health.
6. The address of the Premises shall be properly posted in compliance with §99-1, prior to a final sign off for the building permit.
7. The owner shall submit a final As-Built to the Zoning Board of Appeals upon completion of the structure.
8. 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.
9. 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.)
10. 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.
11. 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
JAN 22, 2020 PM 4:23
TOWN CLERK

Date Filed With Town Clerk