

TOWN OF FALMOUTH  
ZONING BOARD OF APPEALS  
DECISION

CASE NO: #080-19

APPLICANT/OWNER: Margaret J. Duncan and Alexander D. Frankel  
34 Griggs Road, Brookline, Massachusetts

SUBJECT PROPERTY: 18 Bell Tower Lane, Woods Hole, Massachusetts  
Assessor's Map: Map 49A Section 04 Parcel 053 Lot 002

DEED/CERTIFICATE: 132707

SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. On November 13, 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 an addition with garage space plus bedrooms, plus enlargement of a deck at 18 Bell Tower Lane, 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 tax list.
3. There was no previous Zoning Board of Appeals case for the Premises.
4. The advertised public hearing was opened on January 9, 2020. Board members present included Terrence J. Hurrie, Kenneth H. Foreman, Robert B. Dugan, Edward Van Keuren, and Gerald Potamis.

5. Attorney Jonathan M. Polloni, 419 Palmer Avenue, Falmouth, Massachusetts, appeared before the Board, representing the Applicant.

6. The public hearing was closed on January 9, 2020, following a motion made by Mr. Dugan, 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)

- November 6, 2019 letter from Margaret Duncan, authorizing William Roslansky to act as agent
- January 7, 2020 email from Margaret Duncan authorizing Jonathan M. Polloni to represent
- January 2, 2020 letter from Jonathan M. Polloni
- December 20, 2019 email from Michael McGrath, with attached plans

Letters/Referrals/E-mails from Town Departments

- Referral from Conservation dated December 16, 2019 – attached comments
  - Order of Conditions from Conservation Commission, dated 1/08/2020
- Referral from Planning dated November 14, 2019 – no comment
- Referral from Fire Department dated November 15, 2019 – no comment
- Referral from Assessor's dated November 19, 2019 – former address was #18 Park Street
- Referral from Engineering dated December 3, 2019 by Scott Schluter: concern about two posts and a chain within the Town right-of-way; stormwater runoff shall not be directed on to abutting property or right of ways; stormwater runoff shall be diverted to drywells, rain gardens, or other storm water infiltration measure; require staging construction material within the Premises; "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 Board of Health: no reply
- December 31, 2019 email from Amy Lowell regarding sewer connection
- November 15, 2019 email from Amy Lowell regarding sewer

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 Margaret J. Duncan, for Lot 2, #18 Bell Tower Lane, Woods Hole, Falmouth, MA, prepared by Holmes and McGrath, Inc., 205 Worcester Court, Suite A4, Falmouth, MA, rev. dated 12/20/19

- “Fraenkel Addition, 18 Bell Tower Ln., Woods Hole, MA”, prepared by William F. Roslansky, Architect, 26 Albatross Street, Woods Hole, MA, including Elevation and Garage, and First Floor Plan, “Floor Plans, A-1”, and “Elevations, A02”, all dated 10/23/2019

Hearing:

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

Appearing before the Board was Jonathan M. Polloni, representing Margaret J. Duncan and Alexander D. Frankel, 34 Griggs Road, Brookline, Massachusetts, owners (the “Applicant”). Mr. Frankel was also present at the hearing. Mr. Polloni stated that the Premises has been in existence since 1920, but that the lot was subdivided in 2004. He described the proposed addition to the easterly side of the dwelling, to provide for a garage with two bedrooms above. Mr. Polloni noted that the proposed addition would comply with district setbacks, and that the lot coverage by structures will remain under the By-Law limit of 20%. He noted that the garage and driveway will be safer for vehicles, in order to not back out of the lot, and that this was in keeping with the neighborhood. Mr. Polloni stated that the Premises is on municipal sewer, and will increase to three bedrooms in total, as allowed. The closest point of the existing dwelling to the tidal pond is 41 feet, in a district requiring a minimum of 50 feet. Mr. Polloni noted that the proposed deck would be 42 feet from the tidal pond to the west. This proposal has been reviewed by the Conservation Commission. Following inquiry from the Board, Mr. Polloni reported that the posts and chain would be moved onto the subject lot; off the Town’s right-of-way.

Mr. McGrath noted that there is a sewer pipe, but that it may be subject to clogging if it is the original pipe. He noted that the pipe goes out to Millfield Street, where there is a utility easement. Mr. McGrath indicated that to his knowledge, there had not been a payment for a sewer fee.

No one further appeared on the application. The hearing was closed, and the Board proceeded to deliberate following a motion made by Mr. Dugan, seconded by Mr. Van Keuren, and unanimously voted.

Findings:

The subject property, 18 Bell Tower Lane (Lot 2), Woods Hole, Massachusetts (the “Premises”), comprises 11,300 square feet of area, with 11,100 square feet of upland area, in the Single Residence C zoning district, and primarily within a State and local wetland buffer area, in an AE13 flood hazard area. The proposal has been reviewed by the Conservation Commission. The Premises is nonconforming where it comprises 11,300 square feet of area in a district requiring 40,000 square feet, and is sited closer than 50 feet from the tidal pond. The dwelling is sited 29.4 feet from the (northerly) street, and 12 feet from the easterly side lot line, 42 feet from the pond (westerly) , and 37.3 feet from the south, in a district requiring a minimum of 25 feet from the street, and 10 feet from side and rear lot lines. One nonconforming shed is being removed. The proposed garage and living space above will result in a change in lot coverage by structure increasing from 10.2% to 14.2%; remaining in compliance with the maximum 20% lot coverage provision of the By-Law. The lot coverage by structures/parking/paving will increase from 13.4% to 17.4%, remaining in compliance with the maximum lot coverage under 40%. The building height will be 27.1 feet, and the dwelling have a total of three bedrooms.

Town Engineering expressed concern about two posts and a chain within the Town right-of-way, and suggested that stormwater runoff shall not be directed on to abutting property or right of ways;

stormwater runoff shall be diverted to drywells, rain gardens, or other storm water infiltration measure. Staging of construction materials shall be exclusively within the Premises. The Applicant shall post the address on the residence.

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 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. Dugan, and seconded by Mr. Van Keuren, voted unanimously, to grant a special permit for the addition at 18 Bell Tower Lane, Woods Hole, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

Conditions:

1. The construction shall be substantially as shown on the plans:
  - "Plan of Proposed Addition, prepared for Margaret J. Duncan, for Lot 2, #18 Bell Tower Lane, Woods Hole, Falmouth, MA, prepared by Holmes and McGrath, Inc., 205 Worcester Court, Suite A4, Falmouth, MA, rev. dated 12/20/19
  - "Fraenkel Addition, 18 Bell Tower Ln., Woods Hole, MA", prepared by William F. Roslansky, Architect, 26 Albatross Street, Woods Hole, MA, including Elevation and Garage, and First Floor Plan, "Floor Plans, A-1", and "Elevations, A02", all dated 10/23/2019
2. The addition to the easterly side of the dwelling will be 27 feet, 1 inch in height, and the lot coverage by structures will increase to 14.2%; lot coverage by structures/parking/paving will increase to 17.4%. The westerly deck shall be no closer than 42 feet from the tidal pond. The shed at the southeast shall be removed.
3. The Applicant shall comply with Town Engineering requests that the two posts and chain be moved out of the Town right-of-way; stormwater runoff shall not be directed on to abutting property or right of ways; stormwater runoff shall be diverted to drywells, rain gardens, or other storm water infiltration measures, as approved by Engineering. Additionally all staging of materials and construction vehicles shall be exclusively within the Premises, with no parking allowed on the Bell Tower Lane right-of-way or at the parking area for Taft Park.
4. The Premises is limited to three bedrooms with the municipal sewer system. The Applicant shall ensure that the sewer line is properly managed with any affected abutters.

5. The address of the Premises shall be properly posted in compliance with §99-1, prior to a final sign off for the building permit.

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.

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.)

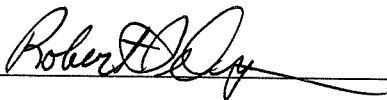
8. This special permit shall lapse three years from the date on which this decision is filed in the Town Clerk's office, if a substantial use of the Special Permit has not sooner commenced, except for good cause, as determined by the Zoning Board of Appeals.

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.

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 29, 2020 PM 1:11  
TOWN CLERK

Date Filed With Town Clerk