



TOWN OF FALMOUTH  
ZONING BOARD OF APPEALS  
DECISION

SPECIAL PERMIT NO: #084-19

APPLICANT/OWNER: James and Nichole Cardeiro  
66 Scituate Road, Mashpee, Massachusetts

SUBJECT PROPERTY: 29 Wood Haven Lane, East Falmouth, Massachusetts  
Assessor's Map: Map 29 Section 01 Parcel 007 Lot 003

DEED/CERTIFICATE: Book 31366, Page 97

SUMMARY: Special Permit Granted

PROCEDURAL HISTORY

1. On December 5, 2019 an application was filed with the Zoning Board of Appeals requesting a Special Permit, pursuant to Section(s) 240-38 G.(1) (b) of the General Code of the Town of Falmouth, to allow a garage proposed to comprise 1,148 square feet, exceeding the By-Law threshold of 900 square feet or 50% of the principal structure, whichever is less at 29 Wood Haven Lane, 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 most recent tax list.
4. The advertised public hearing was opened on January 23, 2020. Board members present included Terrence J. Hurrie, Robert B. Dugan, Edward Van Keuren, Gerald Potamis, and Mary Barry.

5. Brian Bourque, Bourque Project Services LLC, 75 Cross Road, Waquoit, Massachusetts, appeared before the Board, representing the Applicant.

6. The public hearing was closed on January 23, 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)

- Brian Bourque, representative for applicant filed an application for a special permit, filing fee, owner authorization and appropriate plans; application was filed with the Town Clerk on December 5,2019

Letters/Referrals/E-mails from Town Departments

- Referral from Fire Department dated December 9,2019 – no comment
- Referral from Assessing dated December 9,2019 – no comment
- Referral from Planning Department dated December 6,2019 – no comment
- Referral from Conservation dated December 27,2019 – no comment
- Referral from the Engineering Department dated January 9,2020 signed by Scott Shluter, PE with 1 page of comments regarding information on plot plan, erosion and sediment controls required, dry wells, rain garden or other stormwater infiltration measure for the new road area at a minimum, comply with §99-1 – Affixing of Legible numbers; time limit for compliance

Letters/E-mails from Abutters/Interested Parties

None

Plans submitted by Applicant/Applicant's Representative

- 'Site and Sewage Plan – Proposed 3 Bedroom Dwelling' sheet 1 of 2 plan is dated December 30,2018 with a Board date 'received' stamp of December 5,2019 prepared for James Cardeiro, 29 Wood Haven Lane, Falmouth, Ma., as drawn by J. Doyle Associates 170 Cloverfield Way, East Falmouth, Ma 02536;
- 'Site and Sewage Plan – Sections and Details' sheet 2 of 2 plan is dated December 30,2018 with a Board date 'received' stamp of December 5,2019 prepared for James Cardeiro, 29 Wood Haven Lane, Falmouth, Ma., as drawn by J. Doyle Associates 170 Cloverfield Way, East Falmouth, Ma 02536; and
- 'Elevation; Front and Rear Working Set' sheet A1 dated July 22,2019 with a Board date 'received' stamp of December 5,2019, 'Elevations' sheet A2 dated July 22, 2019 with a Board date 'received' stamp of December 5, 2019, 'Basement Plan Details' sheet A3 dated September 14, 2018 with a Board date 'received' stamp of December 5,2019, 'First Floor – Permit Set' sheet A4 dated September 14,2018 with a Board date 'received' stamp of December 5, 2019 prepared for James and Nichole Cardeiro, 29

Wood Haven Lane East Falmouth, MA as drawn by Bourque Project Services LLC, 75  
Cross Road Waquoit, Ma

Hearing:

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

Appearing before the Board was Brian Bourque, representative for the Applicants. Mr. Bourque stated that the project could be constructed as-of-right except that the Applicants have a need for an extra garage bay, on a property that comprises almost two acres of area. The garage is proposed to comprise 1,148 square feet, exceeding the By-Law threshold of 900 square feet or 50% of the principal structure, whichever is less; therefore, requiring a special permit.

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

Findings:

The subject property, 29 Wood Haven Lane, East Falmouth, Massachusetts (the "Premises") comprises 85,182 square feet of area in Agricultural A zoned land, in the Waquoit Bay Coastal Pond Overlay District, and the Wildlife corridor. The Premises is currently unimproved, and is nonconforming in that it has 97.44 feet of frontage, in a district requiring a minimum 100 feet. The height of the new structure is planned to be 18 feet, 0.5 inches in height at the ridge. The proposal includes three car garage bays, exceeding 900 square feet of area, requiring a special permit.

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 adding a third car garage bay as part of the new dwelling, comprising 1,148 square feet of area 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) 240-38 G. (1) (b) of the General Code of Falmouth, following a motion made by Mr. Dugan, and seconded by Mr. Potamis, voted unanimously, to grant a Special Permit to allow a third car garage bay, with total area exceeding 900 square feet of area at 29 Wood Haven Lane, East Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

Conditions:

1. The construction shall be substantially as shown on:
  - 'Site and Sewage Plan – Proposed 3 Bedroom Dwelling' sheet 1 of 2 plan is dated December 30,2018 with a Board date 'received' stamp of December 5,2019 prepared for James Cardeiro, 29 Wood

Haven Lane, Falmouth, Ma., as drawn by J. Doyle Associates 170 Cloverfield Way, East Falmouth, Ma 02536;

- 'Site and Sewage Plan – Sections and Details' sheet 2 of 2 plan is dated December 30,2018 with a Board date 'received' stamp of December 5,2019 prepared for James Cardeiro, 29 Wood Haven Lane, Falmouth, Ma., as drawn by J. Doyle Associates 170 Cloverfield Way, East Falmouth, Ma 02536; and
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2. The address for the Premises shall be posted in accordance with §99-1, prior to the final sign off on the Certificate of Occupancy.
3. The Applicant shall provide Town Engineering with revised plans to show limit of work, and relevant existing contours, and shall demonstrate that there will be no stormwater runoff impacts.
4. The Applicant shall provide for addition of dry wells or other stormwater infiltration mitigation for the roof area, to be approved by Town 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.

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:



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Robert B. Dugan, Falmouth Zoning Board of Appeals

RECEIVED  
FEB 18, 2020 PM 4:06  
TOWN CLERK

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Date Filed With Town Clerk