



TOWN OF FALMOUTH, MASSACHUSETTS  
ZONING BOARD OF APPEALS  
DECISION

CASE NO: 089-19

APPLICANT/OWNER: Paula T. McFarland

2 Cranmore Road, Medfield, Massachusetts,

SUBJECT PROPERTY: 34 Hudson Street, Falmouth, Massachusetts

Assessor's Map: Map 46 Section 00G Parcel 000 Lot 017

DEED/CERTIFICATE: Book 08054, Page 0255

SUMMARY: Special Permit Granted

PROCEDURAL HISTORY

1. On December 17, 2019 an application was filed with the Zoning Board of Appeals requesting a Special Permit, pursuant to Section(s) 240-69 E of the General Code of the Town of Falmouth, to construct an addition, exceeding 20% lot coverage, at 34 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 February 6, 2020. Board members present included Terrence J. Hurrie, Robert B. Dugan, Edward Van Keuren, Mary P. Barry, and James T. Morse.

5. Architect Dan Goodenow, Offpeak Architectural Services, 616 Western Avenue, Gloucester, Massachusetts, appeared before the Board, representing the Applicant.

6. The public hearing was closed on February 6, 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)

- Dan Goodenow, project architect/representative filed an application for a special permit, filing fee and appropriate plans; application was filed with the Town Clerk December 17, 2019
- Bulk / lot coverage calculations submitted by representative; received January 22, 2020

Letters/Referrals/E-mails from Town Departments

- Email dated December 17, 2019 from ZBA staff to architect / representative regarding lot coverage calculations
- Referral from the Health Department dated December 17, 2019, signed by Scott McGann, Health agent stating: *Property on Town sewer and is allowed up to 4 bedrooms. Defer to the Wastewater Division for further comments*
- Referral from Planning dated December 17, 2019 – no comment
- Referral from Assessor's dated December 23, 2019 – no comment
- Referral from Fire Department dated December 23, 2019 – no comment
- Referral from Conservation dated January 16, 2020, signed by Conservation staff stating: *Outside Conservation jurisdiction*
- Referral from Engineering dated January 17, 2020, signed by Scott Schluter, PE – standard comments in addition to obtaining approved Driveway Permit and post any bond with the Engineering Division, construction of the proposed driveway and access is a site concern, erosion and sediment control will be required, add condition that requires dry wells, rain garden or other storm water infiltration measure for the new road area at a minimum

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

- Email dated January 29,2020 from Keith and Mary Jo Bradley, 35 Hudson Street, Falmouth
- Email dated January 31,2020 from Eugene Doyle, 27 Raymond Street, Falmouth

### Plans submitted by Applicant/Applicant's Representative

- 'Plot Plan – Proposed Addition' dated November 8, 2019 prepared for Paul Tesorero and Paula McFarland, 34 Hudson Street, Falmouth, Massachusetts;
- 'Architectural Site Plan' sheet A-1.00, 'Proposed Floor Plans with Demolition' sheet A-1.01, 'Conceptual Sections' sheet A-1.02 plans dated November 14, 2019 residential alteration and addition prepared for 34 Hudson Street, Falmouth, Massachusetts – all plans are stamped and signed by Dan B. Goodenow, R.A.; and
- Three (3) conceptual drawings of proposed dwelling – plans are not authored or dated – Board 'received' stamp of December 17, 2019

### Hearing:

The Notice of Hearing and referrals were read into the record; it was noted that there were two letters in support of the proposal in the record.

Appearing before the Board was Dan Goodenow, representing Paula T. McFarland, (the "Applicant"), owner of 34 Hudson Street, Falmouth, Massachusetts (the "Premises"). He stated that the Applicant has owned the Premises for approximately 40 years, and that she now seeks to construct an addition to the southerly side of the dwelling to include a garage, an entrance at grade, and a replacement rear deck. The existing front landing and steps on the easterly side of the original structure shall be removed, in addition to the deck on the westerly side of the dwelling, and the shed proximate to the southerly lot side line. The lot coverage by structures will increase from 17.98% to 24.80%. The dwelling will remain at 20 feet, 10 ¾ inches in height. The existing swimming pool will remain.

It was noted that according to the survey, the fencing for the pool is partially sited on the abutting property to the north. Mr. Goodenow stated that the Applicant is willing to relocate the fence onto the Premises.

No one further appeared on the application. Following a motion made by Mr. Morse, and seconded by Mr. Van Keuren, the Board voted unanimously to close the hearing, and proceeded to deliberate.

### Findings:

The subject lot, 34 Hudson Street, Falmouth, Massachusetts (the "Premises") is sited in the Single Residence C zoning district, and the Little Pond Coastal Pond Overlay District. The Premises is nonconforming in that it comprises 11,529 square feet of area in a district now requiring a minimum 40,000 square feet; the lot has 89.98 feet of street frontage, in a district requiring a minimum of 100 feet. The existing dwelling conforms to district setback requirements. The Premises is also improved by a sheds; one is sited toward the northwest corner of the lot, proximate to the existing swimming pool. The second shed is sited in the center of the southerly side of the Premises. The existing lot coverage by structures is 17.98 %, which will increase to 24.8%; lot coverage by structures is limited to a maximum of 25% with a special permit. According to lot coverage submitted, there are three other dwellings in the neighborhood area that have lot coverages over 20%.

The following are proposed to be removed: the easterly front steps and landing, the shed at the southerly lot line, the steps from the existing northwest corner, and the deck from the west side. Following construction, the dwelling, with the addition, shall be sited 11.5 feet from the north, 19.4 feet from the south, and 52.1 feet from the west, complying with the By-Law requirement of a 10-foot side and rear setback, and 29.7 feet from the street, complying with the By-Law requirement of a 25-foot street setback.

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.

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) 240-69 E 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 34 Hudson Street, Massachusetts (the "Premises"). This special permit shall be subject to the following Conditions:

1. The construction shall be substantially as shown on the plans:
  - 'Plot Plan – Proposed Addition' dated November 8, 2019 prepared for Paul Tesorero and Paula McFarland, 34 Hudson Street, Falmouth, Massachusetts;
  - 'Architectural Site Plan' sheet A-1.00, 'Proposed Floor Plans with Demolition' sheet A-1.01, 'Conceptual Sections' sheet A-1.02 plans dated November 14, 2019 residential alteration and addition prepared for 34 Hudson Street, Falmouth, Massachusetts – all plans are stamped and signed by Dan B. Goodenow, R.A.; and
  - Three (3) conceptual drawings of proposed dwelling – plans are not authored or dated – Board 'received' stamp of December 17, 2019
2. The dwelling shall be sited shall be sited 11.5 feet from the north, 19.4 feet from the south, and 52.1 feet from the west, and 29.7 feet from the street (east).

The lot coverage by structures will be 24.8 %; lot coverage by structures/parking/paving will be 27.45 %. The easterly front steps and landing, the shed at the southerly lot line, and the steps from the existing northwest corner shall be removed. The deck on the westerly side shall be reconstructed.

3. The Applicant shall relocate the pool fencing off the abutting property to the north, and relocate it entirely on the Premises prior to the final inspection and sign off by the Building Department.

4. The Applicant provide erosion and sediment control measures across the easterly side of the Premises, and 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. Erosion and sediment controls will be required for the gravel construction entrance, as shown on the attachment to the 1/17/2020 Engineering referral. Additionally all staging of materials and construction vehicles shall be within the Premises.

5. The project shall not direct any stormwater runoff from the Premises, and shall provide stormwater infiltration mitigation for at least the new roof areas, as approved by Engineering.

6. The Premises is allowed up to four bedrooms within the municipal sewer system.

7. The address of the Premises shall be properly posted in compliance with §99-1, prior to a final Certificate of Occupancy.

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.)

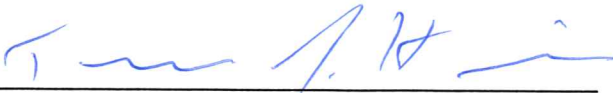
10. This special permit shall lapse three years from the date on which this decision is filed in the Town Clerk's office, if a substantial use of the Special Permit has not sooner commenced, except for good cause, as determined by the Zoning Board of Appeals.

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:



Terrence J. Hurrie, Falmouth Zoning Board of Appeals

RECEIVED  
FEB 21, 2020 AM 9:01  
TOWN CLERK

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Date Filed With Town Clerk