



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

CASE NO: 092-19

APPLICANT/OWNER: Kristian P. Andrade and Kevin P. Andrade

C/o Ament Klauer LLP, P.O. Box 956, East Falmouth, Massachusetts

SUBJECT PROPERTY: 8 Anders Lane, East Falmouth, Massachusetts

Assessor's Map: Map 27 Section 04 Parcel 007 Lot 003

DEED/CERTIFICATE: Book 32214 Page 69

SUMMARY: Special Permit Granted

PROCEDURAL HISTORY

1. On December 23, 2019 an application was filed with the Zoning Board of Appeals requesting a Special Permit, pursuant to Section(s) 240-38 (G) of the General Code of the Town of Falmouth, to construct a third car garage bay within the new dwelling at 8 Anders 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 tax list.
3. There was no previous Zoning Board of Appeals case for the Premises.
4. The advertised public hearing was opened on February 20, 2020. Board members present included Terrence J. Hurrie, Robert B. Dugan, Edward Van Keuren, Mary P. Barry, and James Morse.
5. Kevin P. Klauer II, Ament Klauer LLP, 39 Town Hall Square, Falmouth, Massachusetts, appeared before the Board, representing the Applicant.

6. The public hearing was closed on February 20, 2020, following a motion made by Mr. Morse, 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)

- Attorney Klauer submitted, on behalf of the applicant – application, filing fee and plans

Letters/Referrals/E-mails from Town Departments

- Referral from Assessor's dated December 31, 2019 – no comment
- Referral from the Fire Department dated December 30, 2019 – no comment
- Referral from the Planning Department dated December 31, 2019 – no comment
- Referral from the Water Department dated December 27, 2019 – no comment
- Referral from Conservation dated January 16, 2020, signed by Conservation Agent: *Outside of Conservation jurisdiction*
- Referral from the Engineering Department, dated January 27, 2020, signed by Scott Schluter, PE with standard comments and recommendation to add drywells, raingarden or other stormwater infiltration measure for roof runoff, comply with §99-1 'Affixing of legible numbers required; time limit for compliance'.
- Email dated January 29, 2020, from Scott McGann, Health Agent: *Garage footprint shown to be 11' from the soil absorption system, exceeding the 10' setback to a slab foundation in Title 5*
- Email dated December 24, 2020 to attorney Klauer regarding hearing dated and plans

Letters/E-mails from Abutters/Interested Parties

None

Plans submitted by Applicant/Applicant's Representative

- 'Site and Septic Design Plan', sheet 1 of 1, prepared for Blackwatch, LLC, PO Box 956, East Falmouth, Massachusetts - plan is dated August 1, 2019, with a final revision date of August 8, 2019, as drawn by Cape and Islands Engineering, Summerfield Park, 800 Falmouth Road, Suite 301 C, Mashpee, Massachusetts; plan is signed and stamped by Matthew C. Costa, PLS and Raul Lizardi – Rivera, PE; and
- 'First Floor Framing Plan', sheet A-1, 'Exterior Elevations' sheet A-4, prepared for Kristian and Steph Andrade, dated June 20, 2019, with a final revision date of October 3, 2019, as drawn by Mark S. McCarthy, Boston – plans are not stamped or signed

Hearing:

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

Appearing before the Board was Kevin Klauer, who stated that Kristian P. Andrade and Kevin P. Andrade (the "Applicants") are seeking to construct a 931 square foot, three-car garage, which exceeds the 900 square foot threshold for garage space of the By-Law, within the new dwelling. The Premises comprises

a 45,949 square foot lot, located within the Agricultural A zoning district. Mr. Klauer stated that this project meets the criteria of By-Law section 240-216.

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 proceed to deliberate.

Findings:

Eight Anders Lane, (Lot 3) East Falmouth, Massachusetts (the "Premises") comprises 45,949 square feet of area, within the Agricultural A zoning district. The Premises is also located within the Great Pond Coastal Pond Overlay District. A 24.5-foot by 38-foot garage, comprising 931 square feet of area, is planned within a new 4-bedroom dwelling. The dwelling shall be sited 48 feet from the north, 11.1 feet from the south, and 64 feet from the west, and 47.2 feet from the street (east). The lot coverage by structures is planned to be 7%, and the lot coverage by structures/parking/paving is planned to be 18%, in compliance with the district limit of 20% and 40% respectively. The dwelling is planned to be 34 feet, 7.5 inches in height, which is within the height limit of 35 feet.

In addition to the above findings, the Board finds that the proposed garage within the new 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 construction 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) of the General Code of Falmouth, following a motion made by Mr. Morse, and seconded by Mr. Van Keuren, voted unanimously, to grant a special permit, for the three-car garage at 8 Anders Street, Massachusetts (the "Premises"). This special permit shall be subject to the following Conditions:

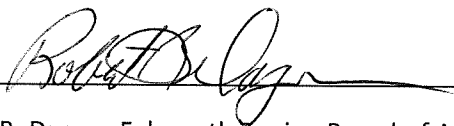
1. The construction shall be substantially as shown on the plans:
 - 'Site and Septic Design Plan' sheet 1 of 1 prepared for Blackwatch, LLC PO Box 956 East Falmouth, Massachusetts - plan is dated August 1, 2019 with a final revision date of August 8, 2019, as drawn by Cape and Islands Engineering Summerfield Park 800 Falmouth Road, Suite 301 C Mashpee, Massachusetts; plan is signed and stamped by Matthew C. Costa, PLS and Raul Lizardi – Rivera, PE; and
 - 'First Floor Framing Plan' sheet A-1, 'Exterior Elevations' sheet A-4, prepared for Kristian and Steph Andrade, dated June 20, 2019 with a final revision date of October 3, 2019 as drawn by Mark S. McCarthy, Boston – plans are not stamped or signed
2. The dwelling shall be sited 48 feet from the north, 11.1 feet from the south, and 64 feet from the west, and 47.2 feet from the street (east). The lot coverage by structures will be 7 %; lot coverage by structures/parking/paving will be 18 %.

3. The height of the dwelling will be 34 feet, 7.5 inches. The Applicant shall provide height certification to the Building Department and Zoning Board of Appeals at framing.
4. The project shall not direct any stormwater runoff from the Premises, and shall provide drywells as stormwater infiltration mitigation for the roof areas, as approved by Engineering.
5. The address of the Premises shall be properly posted in compliance with §99-1, prior to a final Certificate of Occupancy.
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
 MAR 3, 2020 PM 2:15
 TOWN CLERK

 Date Filed With Town Clerk