



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO: 015-20

APPLICANT/OWNER: Barnstable County Agricultural Society, Inc.

SUBJECT PROPERTY: 1220 Nathan E. Ellis Highway, East Falmouth, Massachusetts

Assessor's Map: Map 18 Section 02 Parcel 002 Lot(s) 180, 181,182,183,184,185

Map 18 Section 02 Parcel 002A Lot(s) 359,360,361

Map 18 Section 02 Parcel 003 Lot 000

Map 18 Section 02 Parcel 004 Lot 000

Map 18 Section 02 Parcel 005 Lot 001

Map 18 Section 02 Parcel 006 Lot 002

Map 18 Section 03 Parcel 001 Lot 001

Map 18 Section 03 Parcel 007 Lot 000

Map 18 Section 03 Parcel 008 Lot 000

DEED/CERTIFICATE: Certificate No. 58678 - 50935

SUMMARY: Special Permit granted

PROCEDURAL HISTORY

1. On February 26, 2020, an application was filed by Barnstable County Agricultural Society, 1220 Nathan E. Ellis Highway, East Falmouth Massachusetts (the "Applicant") with the Zoning Board of

Appeals, requesting a special permit to allow non-agricultural event, and parking for a fee at 1220 Nathan E. Ellis Highway, 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. The advertised public hearing was opened on April 2, 2020. Board members present included Terrence J. Hurrie, Kenneth Foreman, Robert B. Dugan, Edward Van Keuren, and Mary P. Barry.
4. Wendy Brown, Manager of Barnstable County Agricultural Society appeared before the Board, representing the Applicant.
5. The public hearing was closed on April 2, 2020, following a motion made by Mr. Foreman, seconded by Mr. Van Keuren, and unanimously voted. Minutes of the hearing(s) are on file with the Zoning Board of Appeals.

Letters/E-mails/Information from Applicant/Representative(s)

- Wendy Brown, Manager, submitted an application for a special permit, authorization letter, filing fee and appropriate plans
- Cape Cod Fairgrounds Schedule of Events – 2020
- Map with aerial photo showing designated lots

Letters/Referrals/E-mails from Town Departments

- Referral dated February 28, 2020 from the Water Department – no comment
- Referral dated February 27, 2020 from the Planning Department – no comment
- Referral dated March 1, 2020 from the Fire Department – no comment
- Referral dated March 11, 2020 from the Assessor's - no comment
- Referral dated March 19, 2020 from the Engineering Department – no comment

Letters/E-mails from Abutters/Interested Parties

None

Plans submitted by Applicant/Applicant's Representative

- 'Plot Plan of Land', sheet 1 of 2, dated January 23, 2018,' Plot Plan of Land', sheet 2 of 2, dated January 4, 2017, prepared for Barnstable County Agricultural Society – as drawn by Stephen A. Hass Engineering, Inc., PO Box 16, South Dennis, MA 02660

Hearing:

Voting members: Hurrie, Foreman, Dugan, Van Keuren, and Barry

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

Wendy Brown, Manager for Barnstable County Agricultural Society, appeared before the Board, stating that she was seeking the annual special permit for events at the Barnstable County Agricultural Society. Ms. Brown reported that currently all the May events have been cancelled, due to the state of

emergency related to the Covid 19 viral pandemic. She stated she has not been taking on new events this year, but that they have scheduled a travelling Vietnam Wall opportunity in October.

Given the unique size of the Premises, the Board inquired as to whether the grounds might be utilized as an extra area for Covid testing. Ms. Brown stated they may look into that.

There was Board concern expressed about how to proceed with an approval to use the Premises, given the current state of emergency Covid 19 circumstances, and language was discussed for a motion. Ms. Brown reported that she is in contact with the Police Chief, the County and the Barnstable County Agricultural Society Board, and noted that they would not hold any event that would endanger the public or staff.

Following a motion made by Mr. Foreman, and seconded by Mr. Van Keuren, the Board voted unanimously to close the hearing, and the Board proceeded to deliberate.

Findings:

The subject lots, collectively identified as 1220 Nathan E. Ellis Highway, East Falmouth, Massachusetts (the "Premises") comprises 98 acres, of which 21 acres are designated for the proposed use for non-agricultural event, and parking for a fee. The Premises is sited in the Agricultural A zoning district, the State Zone II District, the Water Resource Protection District, and the Childs River Coastal Pond Overlay District.

1. The Applicant intends to hold non-agricultural events and paid parking at the Cape Cod Fairgrounds, as has been done over many years, which requires an annual permit per By-Law Section 240-160 A.
2. The Applicant is the property owner, and a nonprofit entity.
3. The Applicant has testified that there were no problems or complaints with the programs last year.
4. Due to the current state-of-emergency in Massachusetts and nationwide, due to the novel Corona virus outbreak, it is unknown when public gatherings will be allowed, and under what conditions.

In addition to the above findings, the Board finds that the proposed garage 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 events 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, 240-109 A and B., 240-160 and 240-18 of the General Code of Falmouth, following a motion made by Ms. Barry, and seconded by Mr. Morse, voted unanimously to grant a special permit to allow non-agricultural events and paid parking at 1220 Nathan E. Ellis Highway,

East Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

Conditions:

1. The events shall be substantially as provided on the Cape Cod Fairgrounds Schedule of Events – 2020, and the permit shall be applicable for the 2020 calendar year.
2. The events shall not be held until the Federal, State and Town's Covid-19 directive and restrictions are removed or repealed, to allow public events to resume.
3. The Barnstable County Agricultural Society shall not be required to seek a modification of its special permit to allow any activity occurring to provide humanitarian relief, medical testing services or treatment, temporary shelter or continuity of government operations, during a declared local, state or federal emergency.
4. Barnstable County Agricultural Society shall continue to work with the Police and Fire Departments, Board of Health, and Board of Selectmen regarding any approvals or inspections required for any events planned.
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 Zoning Board of Appeals 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.

True Copy Attest:



Noreen H. Stockman, Zoning Administrator

RECEIVED
APR 24, 2020 PM 2:00
TOWN CLERK

Date Filed With Town Clerk