



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

CASE NO: 006-20

APPLICANT/OWNER: Arlene Schubert, Trustee

SUBJECT PROPERTY: 23 Ormond Drive, East Falmouth, Massachusetts

Assessor's Map: Map 41 Section 06 Parcel 000 Lot 082

DEED/CERTIFICATE: Book 30778 Page 241

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. On February 5, 2020, an application was filed by Peter Langan for Arlene Schubert and Daniel J. Frawley, Trustees, 23 Ormond Drive, East Falmouth, Massachusetts, (the "Applicants") with the Zoning Board of Appeals, requesting a Special Permit to expand deck area, living space and front porch addition at 23 Ormond Drive, 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 scheduled to open on April 30, 2020. Board members present included Terrence J. Hurrie, Robert B. Dugan, Edward Van Keuren, Mary P. Barry and James T. Morse.
4. Peter Langan, 354 Edgewater Drive East, Falmouth, MA appeared before the Board representing the Applicants.

5. The public hearing was closed on April 30, 2020, following a motion made by Mr. Dugan, seconded by Mr. Morse, and unanimously voted. Minutes of the hearing(s) are on file with the Zoning Board of Appeals.

The following documents were entered into the record:

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

- Peter Langan, representative for applicant, submitted an application for a special permit, filing fee and appropriate plans; application was filed with the Town Clerk on February 5, 2019
- Four (4) photos of existing dwelling – Board ‘received’ stamp of February 5, 2020
- Lot Coverage Worksheet – Board ‘received’ stamp of February 5, 2020

Letters/Referrals/E-mails from Town Departments

- Referral from the Water Department dated February 5, 2020 – no comment
- Referral from the Planning Department dated February 6, 2020 – no comment
- Referral from the Fire Department dated February 6, 2020 – no comment
- Referral from the Assessors dated February 10, 2020 – no comment
- Referral from the Engineering Department dated March 2, 2020 signed by Scott Schluter, PE with standard comments and a recommendation: *We defer to the Conservation Commission on stormwater management and erosion and sediment controls.*
- Referral from Conservation dated March 10, 2020 signed by Conservation Agent stating: *I have attached an Order of Condition approved by the ConCom. We are expecting the applicant to file an Administrative Review to amend their Order of Conditions to reflect the newer plan they have submitted to ZBA; Order of Conditions attached.*

Letters/E-mails from Abutters/Interested Parties

None

Plans submitted by Applicant/Applicant’s Representative

- ‘Plan and Details, Subsurface Sewage Disposal System Upgrade’ 23 Ormond Drive, East Falmouth dated February 16, 2018 with a final revision date of April 14, 2020, prepared for Arlene Schubert 391 Edgewater Drive West, East Falmouth, Ma - as drawn by Collins Civil Engineering Group, Inc., 225 South Main Street, West Bridgewater, Ma 02379; plan is stamped and signed by Steven W. Rumba, PLS 2/4/20; and
- ‘Custom Home Design – Schubert Residence, 23 Ormond’ sheets A1, A2 and S1, all plans are dated February 16, 2018 with a final revision date of April 13, 2020, as drawn by Designs by SPB Residential/Commercial Design and Consulting, Pocasset, Ma

Hearing:

March 19, 2020

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

Peter Langan appeared before the Board, representing the Applicants. He reported that the 1,300 square foot ranch dwelling was in severe need of updating and upgrading. They seek to add 95 square

feet of living area by squaring the house. The additional lot coverage by structure will be related to decking for outdoor use.

The Board expressed a concern about increasing the size of the dwelling to be so close to the maximum 25% lot coverage, and requested that the Applicant consider reducing the deck size. Mr. Dugan made a motion to continue the application to April 30, 2020, which was seconded by Mr. Morse, and unanimously voted.

April 30, 2020

Peter Langan appeared before the Board, and stated that due to the Board's concern about increasing lot coverage to 24.9%, he had reduced the deck, thereby reducing the lot coverage to 24.1%.

Board member comment included the fact that the property is currently dangerous due to disrepair and demolition commenced with the property being easily accessible, without fencing.

No one further appeared on the application.

Mr. Dugan made a motion to close the hearing, which was seconded by Mr. Morse, and unanimously voted.

Findings:

The subject property, 23 Ormond Drive, East Falmouth, Massachusetts (the "Premises") is sited in the Single Family Residence C zoning district, and comprises 10,450 square feet of area, is a zone now requiring a minimum of 40,000 square feet. The Premises is sited in the Waquoit Bay Coastal Pond Overlay District. The Premises is in the coastal flood zone elevation 12, and the delineation for the 100 foot line from the bordering vegetated wetland runs north to south through the approximate midline of the parcel. The application involves removing two sets of stairs at the northerly side of the dwelling, and replacing an existing patio at the south side of the dwelling with a deck that is proposed to wrap around the south side of the dwelling to the west side.

1. The existing lot coverage by structures is 18.7%, which will be increased to 24.1%. The existing lot coverage by parking/paving/structures is 32.1%, which will be increased to 36.7%. The Applicant reduced the size of the deck, as requested by the Zoning Board of Appeals.
2. The proposal has been reviewed by the Conservation Commission, and an Order of Conditions has been issued.
3. The septic system is being upgraded from a leaching pit to a septic tank.
4. The existing roof for the three-bedroom dwelling is being removed, and replaced five feet higher, with a ridge height at 21 feet above grade.

In addition to the above findings, the Board finds that the proposed expanded deck area, living space and front porch 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 proposed 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) 240-69 E of the General Code of Falmouth, following a motion made by Mr. Dugan, and seconded by Mr. Morse, voted unanimously to grant a special permit to construct expanded deck area, living space and a front porch addition at 23 Ormond Drive, East Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

Conditions:

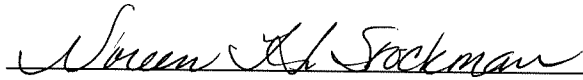
1. The construction shall be substantially as shown on the plans:
 - 'Plan and Details, Subsurface Sewage Disposal System Upgrade' 23 Ormond Drive, East Falmouth dated February 16, 2018 with a final revision date of April 14, 2020, prepared for Arlene Schubert 391 Edgewater Drive West, East Falmouth, Ma - as drawn by Collins Civil Engineering Group, Inc., 225 South Main Street, West Bridgewater, Ma 02379; plan is stamped and signed by Steven W. Rumba, PLS 2/4/20; and
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2. The dwelling shall be no closer to the north (street) than 28.7 feet. The dwelling shall be 15.2 feet from the east, 33.8 feet from the south, and 10.5 feet from the west side lot lines, in compliance with district setback requirements.
3. Lot coverage by structures will be 24.1%. Lot coverage by parking/paving/structures will be 36.7%.
4. The Applicant shall not direct any stormwater runoff from the Premises.
5. The Applicant shall maintain the Premises in a clean secure way during the construction.
6. The Applicant shall provide the Assessor an opportunity to inspect the Premises prior to the final sign off by the Building Department.
7. The Applicant shall provide a copy of the As-built plan to the Zoning Board of Appeals.
8. Construction shall be in accordance with all requirements of the Conservation Commission.
9. Statutory appeal periods, and thus the issuance of Certificates of No Appeal, have been temporarily affected by Court Standing Orders, available at www.mass.gov/guides/court-system-response-to-covid-19. Applicants, abutters and interested parties should consult the Standing Orders to determine their next actions. Any decision by a permit holder to proceed is at their own risk, and the permit holder is urged to consult their own legal counsel.
10. Under Section 17 of Chapter 53 of the Acts of 2020, the requirement to record permit decisions with the Registry is suspended for so long as the Registry is "closed or subject to rules and procedures restricting public in-person access." However, such recording will still be required upon the full reopening of the Registry. The Barnstable County Registry of Deeds continues to accept filings by postal

mail during this period, and permit holders are requested to file for recording through this method to the extent possible.

11. 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.

12. 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
MAY 19, 2020 AM 8:30
TOWN CLERK

Date Filed With Town Clerk