



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

CASE NO: 024-20

APPLICANT/OWNER: Kevin P. Klauer II and Meghan G. Klauer

59 Braeside Road, Falmouth, Massachusetts

SUBJECT PROPERTY: 55 Blair Lane, West Falmouth, Massachusetts

Assessor's Map: Map 26 Section 03 Parcel 046 Lot 009A

DEED/CERTIFICATE: Book 31906 Page 165

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. On April 6, 2020, 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 allow a third car garage bay at 55 Blair Lane, West 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 May 14, 2020. Board members present included Terrence J. Hurrie, Kenneth H. Foreman, Robert B. Dugan, Edward Van Keuren, and Edwin Zylinski.
5. Kevin P. Klauer II, homeowner, appeared before the Board on the application.

6. The public hearing was closed on May 14, 2020, following motion made by Mr. Dugan, seconded by Mr. Foreman, 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 an application, filing fee, appropriate plans and supporting documentation; application was filed with the Town Clerk on April 6, 2020

Letters/Referrals/E-mails from Town Departments

- Referral dated April 7, 2020 from the Fire Department – no comment
- Referral dated April 7, 2020 from Conservation from Conservation Agent: *Conservation staff has no comment on the proposed project as it is not located within Conservation jurisdiction*
- Referral dated April 9, 2020 from the Planning Department – no comment
- Referral dated April 7, 2020 from the Assessors – no comment
- Referral dated April 21, 2020 from the Engineering Department, signed by Scott Schluter, PE: This appears to be the addition of a garage door on a previously approved garage and includes no site work. No comments.

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 May 5, 2020 from Graham Cooper, 51 Blair Lane, West Falmouth

Plans submitted by Applicant/Applicant's Representative

- 'Site and Septic Design – New Construction' sheet 1 of 1 prepared for Kevin P. and Meghan G. Klauer 59 Braeside Road, Falmouth, Ma - lot 9A Blair Lane, Falmouth, Ma plan dated March 19,2019 with a final revision date of April 8,2020 – plans is stamped and signed by Matthew C. Costa, PLS; as drawn by Cape and Islands Engineering 800 Falmouth Road, Suite 301C, Mashpee, MA; and
- 'Cover' sheet A0.0 dated February 22, 2019 with a final revision dated of April 2, 2020, 'First Floor Plan' sheet A1.1.1 dated February 22, 2019 with a final revision date of April 2, 2020, 'Elevations' sheet A2.1, dated February 22, 2019 with a final revision date of April 2, 2020 'Elevations' sheet A2.2 dated February 22, 2019 as drawn by Longfellow Design-Build, 367 Main Street, Falmouth, Ma – plans are not stamped or signed

Hearing:

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

Appearing before the Board was Kevin Klauer, owner of 55 Blair Lane, West Falmouth, Massachusetts (the "Premises"). He reported that he is in the process of building a new home and would like to

construct an attached 3-car garage, comprising just over 900 square feet of area. He stated that the Premises comprises 40,062 square feet of area, and is located within a Residential B zoning district. Mr. Klauer stated that he has 4 children, and that they are building a new house to provide extra space for the family. He opined that the project meets the criteria of By-Law §240-216.

There was no public comment.

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

Findings:

The subject lot, 55 Blair Lane, West Falmouth, Massachusetts (the "Premises"), is located in the Single Family Residential B zoning district, and comprises 40,000 square feet, with 65 feet of frontage on Blair Lane. The Premises is also located in the wildlife corridor, and the windborne debris region. The lot coverage by structures is 10%, in a district where the maximum allowed is 20%. The lot coverage by parking/paving/structures is 17%, in a district where the By-Law maximum allowed is 40%. The application requests a third car garage bay, which is allowed by special permit for a garage with a footprint exceeding 900 square feet or 50% of the footprint of the principal structure whichever is less. The footprint of the dwelling is 3,945 square feet. There is no change to bedroom count, and the proposal increases utilization of the Premises. The Board received one letter of support, and there was no opposition expressed. The Board found that the application met the criteria of By-Law §240-23. G. (1) (b) and By-Law §240-216.

The Zoning Board of Appeals weighed the effects of the proposed third car garage bay 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) 240-23.G. (1) (b) of the General Code of Falmouth, following a motion made by Mr. Dugan, and seconded by Mr. Zylinski, voted unanimously to grant a special permit to construct a third car garage bay at 55 Blair Lane, West Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

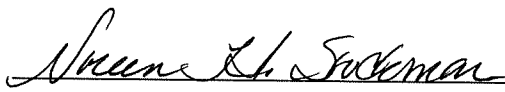
Conditions:

1. The construction shall be substantially as shown on the plans:
 - 'Site and Septic Design – New Construction' sheet 1 of 1 prepared for Kevin P. and Meghan G. Klauer 59 Braeside Road, Falmouth, Ma - lot 9A Blair Lane, Falmouth, Ma plan dated March 19, 2019 with a final revision date of April 8, 2020 – plans is stamped and signed by Matthew C. Costa, PLS; as drawn by Cape and Islands Engineering 800 Falmouth Road, Suite 301C, Mashpee, MA; and
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'Elevations' sheet A2.2 dated February 22, 2019 as drawn by Longfellow Design-Build, 367 Main Street, Falmouth, Ma – plans are not stamped or signed

2. The dwelling including the 3 car garage shall be 18 feet from the west, 50 feet from the east, and 22 feet from the north side and rear lot lines, in compliance with 10-foot district setback requirements, as shown on the plans.
3. Lot coverage by structures will be 10%. Lot coverage by parking/paving/structures will be 17%.
4. 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.
5. 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.
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 Zoning Board of Appeals may deny the request.
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
JUN 8 2020 AM 10:25
TOWN CLERK

Date Filed With Town Clerk