

**FALMOUTH BOARD OF ZONING APPEALS  
MEETING MINUTES  
TUESDAY, SEPTEMBER 24, 2013, 6:30 P.M.  
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Willie Audet (Chair), Stan Given, Dennis Keeler, Roland Beaudoin (Alternate)

**MEMBERS ABSENT:** Jay Meyer, Jonathan Berry

**STAFF PRESENT:** Justin Brown, Code Enforcement Officer

**1. Call to order**

The meeting was called to order.

Roland Beaudoin was appointed as a voting member.

**2. Approval of minutes from the previous hearing.**

Willie Audet moved discussion of the minutes to the end of the hearing.

**3. Discussion and finding that all applications presented for this hearing are complete.**

The Board determined that all applications were complete.

**4. Agenda Items**

**a. 7 Hawkes Crossing. Shawn & Rebecca Casey** - Requesting Conditional Use under Section 5.22.1 to construct an Accessory Dwelling above a garage. Parcel, U23-020, zoned RB.

Becca Casey explained that they do not have a garage; they are building a garage with an apartment above it for her mother. The structure is barn-scaled, close to where the original farm was.

Dennis Keeler asked where the lot lines are on the plan. Ms. Casey indicated their location on the plans; she had new plans from what was originally submitted.

Dennis Keeler asked for clarification on the front and sides of the lot. Justin said the frontage is gained off a curb. The front setback is located on two angles. The rear was set based on that front.

Dennis Keeler said the setback has gone from 25' to 25.5'. Ms. Casey said that was her mistake; she had not factored in the overhang the first time.

Dennis Keeler cautioned the applicant about locating the boundaries; Ms. Casey said the surveyor found the original stakes and surveyed and located the pins for the contractor based on those.

Dennis Keeler asked for the new plans to be added to the file.

Stan Given read the requirements in section 5.22.1(e) and asked about the outside stairs to the apartment. Ms. Casey said they are on the gable end, opposite the approach, facing the field. The stairs lead to a deck on the upper floor, with a patio beneath it.

Willie Audet asked if this is an accessory cottage. Justin Brown confirmed that it is, since it is detached from the single family home on the lot.

Public comment period opened; no public comment.

Justin Brown said the provision in 5.22.1(e) is intended to prevent stairs with more of a fire escape look to them; the stairs proposed here are integral to the deck.

Dennis Keeler moved to approve the application under 5.22.1; Stan Given seconded. Motion carried 4-0.

**b. 17 Falmouth Rd. Phyllis Hewitt & John P. Kipp Jr.** – Requesting Conditional Use under Section 5.22.1 to construct an Accessory Dwelling above a garage. Parcel U25-007, zoned RB.

John Kipp said they have an existing garage; they want to take the second floor and convert it to an accessory apartment. They wouldn't change any of the exterior features of the building other than putting some skylights into the roof and adding an entry door next to the garage door.

Stan Given asked about the elevations submitted; Mr. Kipp said there was an error with the software he used. This is all within an existing structure. There is an lean-to area behind the existing garage that has been there for longer than he has owned the home. There is no footprint change proposed with this application.

Dennis Keeler asked if the garage is attached to the home. Mr. Kipp confirmed that is the case.

Dennis Keeler asked about the parking required. Justin Brown said 2 spaces per unit is required.

Dennis Keeler didn't feel the plan submitted meets the requirements of the ordinance. Justin Brown felt it was sufficient, given the fact this is an existing structure.

Willie Audet said the apartment plan shows dimensions of 24'x27' but the floor plan shows no knee walls. Mr. Kipp said the apartment level is below the knee wall so the dimensions of the apartment are the same as the garage below it. The knee wall starts about 4-5' above the floor level of the apartment.

Willie Audet asked about the storage area shown; he asked if that is going to remain unfinished. Mr. Kipp confirmed that was the case.

Public comment period opened; no public comment.

Stan Given moved to approve the application under section 5.22.1; Roland Beaudoin seconded. Motion carried 4-0.

**c. 4 Kelley Rd. Carol Morrissette, representing Liberty Block LLC/NEK** – Requesting Conditional Use under Section 5.22.1 to construct an Accessory Dwelling. Parcel U01-210, zoned RA.

Carol Morrissette said this is a simple change of use application. The current building is approved for a home occupation; it was used as a dental office until it was vacated two or three years ago. They are planning to change the dental office into an accessory apartment. There will be no increase in square footage; there is a clear demarcation between the primary and secondary dwelling units, and there are no exterior changes planned. The front of the building, which is visible from Kelley road, will remain the same. They believe that this change of use will reduce traffic from the former business and will increase the neighborhood feel of the area.

Roland asked about the total square footage; Justin Brown said reviewed the numbers with Ms. Morrissette and confirmed that the proposed apartment is below the maximum allowed. He agreed that the tax records are out of date; the building has not been assessed for square footage in quite some time.

Dennis Keeler pointed out that this is unusual; in this instance the apartment is at the front of the building.

Ms. Morrissette said that was correct; that was where the dental office was located.

Dennis Keeler said the primary entrance way is to the apartment. The ordinance calls for one primary entrance for the building. He thought it could be for the apartment.

Justin Brown said that is not what the ordinance calls for specifically; it calls for the primary unit to have the primary entrance. In this instance, due to the layout of the building, he felt that wasn't feasible.

Dennis Keeler read it to mean "one main entrance". Justin Brown felt that it meant the main entrance was for the single family dwelling, though he felt it was restricting, as proven in this instance.

Roland Beaudoin agreed with Dennis Keeler's reading of the ordinance.

Dennis Keeler pointed out that the primary dwelling unit is spread out among three floors; he asked how someone gets up and down. Ms. Morrisette said there are two spiral staircases.

Dennis Keeler wanted to confirm that it was a contiguous unit. Ms. Morrisette said it is contiguous. There is a lot of open space from the second floor; it is like a loft.

Stan Given asked if there will be internal partition changes in the accessory unit; Ms. Morrisette said yes.

Stan Given asked if there is any access from the accessory unit into the primary dwelling unit; Ms. Morrisette said there is, but that will be removed. She indicated its location on the plans.

Stan Given asked how someone gets to the second floor in the primary dwelling; Ms. Morrisette indicated another staircase that accesses the second floor.

Stan Given asked if there were any concerns about proper egress from the second floor; Justin Brown said there were not; it meets all codes and standards.

Stan Given asked what the third floor was being used for; Ms. Morrisette said it is the master bedroom.

Stan Given asked if the use of the third floor is grandfathered since they are not changing the primary residence; Justin Brown felt that was the case.

Willie Audet agreed with Justin Brown's interpretation of the ordinance pertaining to the main entrance. He didn't feel this application met the ordinance.

Ben Henschel, of Liberty Block LLC/NEK, argued that there is a definitive drive along the side of the property leading to the primary dwelling.

Christopher Hickey of Greenway Drive, an abutter, said he had no objection to the proposal. He thought one could interpret the intent of the ordinance to avoid a duplex type design, with two front entrances facing the street. He felt the goal was to determine architectural design, to ensure the look of a single-family dwelling and not a two-family dwelling.

The Board deliberated the ordinance language pertaining to the primary entrance. Dennis Keeler argued that the purpose was to preserve the single-family residential character and he felt this application met that goal. Willie Audet and Stan Given felt the primary entrance should access the primary dwelling.

Stan Given wondered if they would modify the front entrance to access the primary dwelling on the second floor, with an interior door accessing the accessory dwelling through the closet. Ms. Morrisette explained that this would be difficult due to mechanical equipment in the basement underneath that area.

Roland Beaudoin moved to approve the application; Dennis Keeler seconded.

Stan Given amended the motion to include a condition for review of fire and life safety code for access/egress due to the internal changes and that it accommodates a third story. Justin Brown said that would be done anyway.

Roland Beaudoin and Dennis Keeler approved the amendment to the motion.

Motion carried 3-1(Audet).

**d. 55 Thornhurst Rd. Matthew O'Malia, representing Daniel Hildreth** – Requesting Conditional use under Section 6.2 for a wood walkway. Parcel U06-001-E, zoned RC.

This item was tabled prior to the hearing.

**2. Approval of minutes from the previous hearing.**

There were no minutes to approve.

The meeting was adjourned.

Respectfully submitted,

Melissa Tryon  
Recording Secretary