



Zoning Board of Appeals Findings and Decision



FILE #20-2002: 8 Seashore Park Dr., U9

September 3, 2020

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

INTRODUCTION:

Application by **Michael Andrews** seeking a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, of the Zoning By-Laws to extend a deck and stairway along a pre-existing, non-conforming rear dimension on the property located at **8 Seashore Park Drive, U9 (Residential 3 Zone)**.

A public hearing was held on September 3, 2020. Zoning Board of Appeals members adjudicating this application were:

Jeremy Callahan, Chair
Steven Latasa-Nicks
Daniel Wagner
Peter Okun
Quinn Taylor

The meeting was duly posted and notices of this application were sent out in accordance with zoning regulations and Massachusetts open meeting laws.

The five members hearing this case exceeded the legal quorum requirement for a super majority vote.

Decision: By a vote of five (5) in favor and none (0) opposed, none (0) abstaining, the Zoning Board of Appeals APPROVED the petition for a special permit.

DESCRIPTION OF PROPERTY AND PROPOSAL

1. This property, Assessors Map 9-2-3-E, parcel S09, is located in the Residential 3 Zoning District. The property is registered at the Barnstable Land Court Registry of Deeds Land

Court Certificate of Title C277-985991. Owner is Michael Joseph Andrews, 8 Seashore Park Dr., U9, Provincetown, MA, 02657.

2. The September 3 hearing was held virtually in accordance with Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law and March 23, 2020 Order imposing strict limitation on the number of people that may gather in one place.
3. Michael Andrews appeared with his wife Maria to describe the proposal. The project consists of an extension of a deck and stair with the purpose of eliminating a step located at the house which prevents Mrs. Andrews from enjoying the outdoor space. The project would also result in a larger deck providing sufficient space for more furniture and added enjoyment.
4. There would be no hazard, congestion or environmental degradation as a result of the deck and stair extension.
5. To support the application, the following documentation was provided:
 - a. Four pages of hand drawn sketches indicating site dimensions and the location of structures, the existing deck plan and the proposed plan, by Gil R. Potts, Carpenter, dated 7/15/2020

APPLICABLE LAW AND DECISION CRITERIA:

1. Massachusetts General Laws Chapter 40A, Section 9 as it pertains to special permits.
2. Article 3, Section 3110 of the Provincetown Zoning Bylaws

Changes, Extensions and Alterations

As provided in Sec. 6, Ch. 40A, G.L., Pre-existing nonconforming structures may be altered, reconstructed, extended or changed if in so doing the nonconformancy is not increased.

The following types of alterations do not result in an increase in nonconformancy: 1. Alteration to a nonconforming structure where the alteration will comply with all applicable sections of the Zoning By-law in effect at the time of application. 2. Alteration to a nonconforming structure on a lot containing at least the minimum square footage required, prior to any lot dimensional increases within the zoning district in which the lot is located, where the alteration will comply with all applicable sections of the Zoning By-law, in effect at the time of application, including but not limited to yard setback, lot coverage and height requirements.

Otherwise, pre-existing nonconforming structures may be extended, altered or changed along the nonconforming dimension or dimensions without intruding further into existing setback area if the Board of Appeals after a Public Hearing finds that such extension, alteration, or change will not be substantially more detrimental than the existing nonconformancy to the neighborhood.

3. Section 5330 of the Zoning By-Laws (Special Permits)

Special Permits (other than those specified in Section 3420 [outside displays]) shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

SPECIFIC FINDINGS:

1. There was one letter in the file from Robert Cameron as trustee for the Sea Shore Pines condominiums at 8 Seashore Park Drive indicating the support of all of the trustees.
2. Board members questioned the applicant. No adverse effects of the proposal were identified.
3. ***Steven Latasa-Nicks moved to close the public portion of the meeting. Peter Okun seconded. It was so voted 5-0.***
4. ***Steven Latasa-Nicks moved that the Board find pursuant to Article 5, Section 5330, Special Permit Consideration, that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation, and further***
5. ***Steven Latasa-Nicks moved that the Board vote to approve a Special Permit pursuant to Article 3, Section 3110, Change, Extensions or Alterations, to extend the pre-existing non-conforming structure for the property located at 8 Seashore Park Drive, U9. Peter Okun seconded. It was so voted 5-0.***

Accordingly, the Zoning Board of Appeals approved the Special Permit, with the limitation that this permit shall lapse twenty-four months following grant thereof (plus such time required to pursue or await the determination of an appeal referred to in Sec. 17, Ch. 40A, G.L.) if a substantial use thereof or construction has not sooner commenced except for good cause as determined by the Board of Appeals.

SIGNED BY:

DATE OF FILING:

A copy of this application, bearing the stamp of this Board, the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Department of Community Development. The applicant is hereby put on notice that any deviation from the above referenced application shall invalidate this Special Permit and shall require further review by this Board. Furthermore, the Special Permit issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in MGL c.40A.