

**FALMOUTH ZONING BOARD OF APPEALS  
FINDINGS AND DECISION**

**SPECIAL PERMIT NO:** 037-18

**APPLICANT/OWNER:** HSP PRIME LLC of Annapolis, MD

**SUBJECT PROPERTY:** 272 Maravista Avenue, Teaticket, MA  
**Assessor's Map:** Map 39A Section 02 Parcel 000 Lot 028

**DEED/CERTIFICATE:** Certificate 209238 – Lots 28, 29 and 30 – Plan 4286-A (Plt 13)

**SUMMARY:** Special Permit Granted with Conditions

**PROCEDURAL HISTORY**

1. Under a date of May 11, 2018, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to construct an addition creating habitable space to the pre-existing nonconforming single-family dwelling that will exceed the 20% maximum lot coverage by structures on subject property known as 272 Maravista Avenue, Teaticket, MA.
2. Notice was duly given as required by Section 11 of Chapter 40A, M.G.L., as well as notices sent to all persons deemed to be affected thereby as they appear on the tax list, and at which hearing, at the Board's discretion, relevant and appropriate testimony was heard.
3. A duly advertised public hearing was opened on June 21, 2018.
4. The public hearing was closed on June 21, 2018, wherein the Board consisting of Chairman Kenneth Foreman, Vice Chairman Terrence Hurrie, Acting Clerk Ed Van Keuren and Alternates Members Gerald Potamis and Robert Dugan, sitting as voting members, made a decision to Grant the Special Permit with conditions. Minutes of the hearing(s) are on file in the Board of Appeals.
5. The applicant was represented at the hearing by Thomas J. Bunker, PLS with BSS Design, Inc., who reviewed and discussed proposed plans with the Board.
6. The Board received documents and information prior to and during the public hearing that are on file in the office of the Board of Appeals at Town Hall, as set forth below:

**Letters/E-mails from Abutters/Interested Parties**

None

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

05/11/2018	Thomas J. Bunker, PLS as representative for applicant, submitted an application for a public hearing with plans, fee, a letter of authorization and photos of existing dwelling
06/07/2018	Thomas J. Bunker, PLS submitted to the file a 'Lot Coverage/Bulk Calculations Worksheet'
06/21/2018	Thomas J. Bunker, PLS submitted to the file a revised "Plot Plan – Existing House" that showed corrected lot coverage by structures for existing dwelling, deck and landing

**Letters/Referrals/E-mails from Town Departments**

05/14/2018 Referral submitted to the file from Planning Department staff with no comment

05/16/2018 Referral submitted to the file from Director of Assessing that states: *includes lots 28, 29 and 30*

05/17/2018 Referral submitted to the file from Falmouth Fire Rescue Department with no comment

05/21/2018 Referral submitted to the file from Town Water Department with no comment

06/04/2018 Referral submitted to the file from Board of Health Agent that no property is on Town sewer

06/12/2018 Referral submitted to the file Town Engineering Department with standard comments and the recommendation to add dry wells, rain garden, or other stormwater measure for the roof

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

**Plans submitted by Applicant/Applicant's Representative**

“Plot Plan – Existing House” prepared for Lynne Harding 272 Maravista Avenue Falmouth, Massachusetts as drawn by BSS Design, Inc. – plan is dated June 21, 2016 with a final revision date of June 21, 2018 and with a Board date ‘received’ stamp of June 21, 2018;

“Plot Plan – Proposed Addition” prepared for Lynne Harding 272 Maravista Avenue Falmouth, Massachusetts as drawn by BSS Design, Inc. – plan is dated May 10, 2018 and is stamped and signed by Thomas Jackson Bunker, PLS – plan has a Board date ‘received’ stamp of May 11, 2018; and

Hand drawn or computer generated plans consisting of ‘Existing Conditions’ showing floor plans and elevations as existing with a Board date ‘received’ stamp of May 11, 2018; ‘Basement Plan’ with a Board date ‘received’ stamp of May 11, 2018; ‘Proposed Elevations’ (Narragansett St and Maravista Ave) with a Board date ‘received’ stamp of May 11, 2018; ‘Proposed Elevations’ (East and South) with a Board date ‘received’ stamp of May 11, 2018; and ‘Proposed Floor Plan’ with a Board date ‘received’ stamp of May 11, 2018.

Hearing:

Tom Bunker, PLS with BSS Design, Inc. reviewed the existing site and proposed addition that will be constructed over a portion of the existing deck at the rear of the dwelling – remaining deck to be removed, but a small porch area at the northerly side of the addition will be constructed to allow for egress. The dwelling is a two-bedroom ranch style structure with a height of 15’. He pointed out the existing nonconforming setback of 18.3’ to the front property line off Narragansett Street, the 14.7’ setback to the front property line off Maravista Avenue and the 4.7’ nonconforming setback to the southerly side/rear property line. He informed the Board that he revised the “Plot Plan – Existing House” that he originally submitted as he made an error in the existing lot coverage by structures which is actually 21.71% - not the 16.66% previously submitted on plan dated 6/21/2016. Mr. Bunker reviewed the 24’ x 16’ addition that will become the new ‘great room’ and allows the applicant to reconfigure the kitchen area and create a third bedroom. The property has the right to be on Town sewer so the addition of a third bedroom may be allowed by right (four bedrooms allowed in this sewer district).

The Board discussed plans with Mr. Bunker. All concerns and questions were addressed.

Chairman Foreman asked for any public comment in support or opposition of the proposed project.

Cheryl Williams of Great Bay Road stated concern with driveway and parking as the driveway appears to be created for one car and there are sometimes cars parked on the roadway.

Frank Laquidara of 282 Maravista Avenue stated he has concerns with this being a rental home and the number of vehicles on the property. He stated it is a problem and the parking should be screened. He asked if additional deck would be added.

The Board discussed the driveway off Narragansett Street and the parking concerns by abutters.

Member Van Keuren made a motion to close the hearing. Member Potamis seconded the motion. Motion carried 5 - 0.

Chairman Foreman closed the hearing.

### **FINDINGS**

The Board of Appeals, after carefully considering all of the facts and evidence submitted at the hearing, makes the following findings:

The subject property located at 272 Maravista Avenue contains 7,200 square feet of Residential C zoned land that is located within the Little Pond Coastal Pond Overlay District and slightly within the Search and Rescue Overlay. The applicant applied under Section(s) 240-3 C. and Section 240-69 E. of the Code of Falmouth to construct a 24' x 16' addition at the rear of the dwelling where there is currently a deck on subject property. The existing structure is a ranch-style, two-bedroom dwelling with a height of 15'. The dwelling structure has nonconforming setbacks to both front yards – one off Maravista Avenue and the other off Narragansett Street – both less than the 25' setback required under Section 240-68 A. of the Code of Falmouth; and the deck structure, to be removed, has a setback of 4.7' to the southerly side/rear property line that requires a 10' setback pursuant to Section 240-68 B. of the Code of Falmouth (the dwelling structure is 4.8' to same property line). The plans show that the addition will be constructed and the existing deck will be removed. The addition will have an entry porch with steps to grade. The applicant applied under Section 240-69 E. to allow an increase to lot coverage by structures as the addition was going to exceed 20%. However, the engineer realized that he had made in error in the calculations and that the existing structures on-site already exceed 20% so a finding and relief under Section 240-69 E. is not necessary as the correct existing lot coverage by structures is 21.71% and the proposed plan will increase it very slightly to 21.97%. The proposed addition will create a new 'great room' and allow the applicant to renovate existing space creating an additional bedroom within the dwelling (going from 2 bedrooms to 3 bedrooms). The applicant's representative submitted calculations regarding lot coverage and that the subject property with the addition as proposed is in keeping with the neighborhood lot coverage calculations.

Section 240-3 C. of the Code of Falmouth allows the Board of Appeals to approve a special permit to extend, alter or change a pre-existing non-conforming structure or use if the Board deems said change is not substantially more detrimental than what exists.

The Board finds that the proposed removal of the existing deck and the 24' x 16' addition at the rear of the pre-existing nonconforming dwelling is not substantially more detrimental than what currently exists as it will not increase the existing nonconforming setbacks and it will not create any new nonconforming setbacks. The Board further finds that the creation of a new 'great room' and the addition of a third bedroom will enhance the

utilization of the dwelling by its occupants. Furthermore the Board finds that there is a slight increase to the existing lot coverage by structures – going from 21.71% to 21.97% - and that said increase can be considered benign.

The Board finds that the proposed addition will have basement space that will tie into existing basement space and that all basement area will be unfinished and used for storage.

The Board finds that the applicant, through the applicant's representative is amenable to installing no less than two (2) drywells to maintain stormwater runoff onto site. The Board further finds through applicant's representative, that there is no intent to add additional deck space beyond what is shown on the "Plot Plan -- Proposed Addition" submitted, reviewed and noted herein.

The Board finds that there is a concern by the abutters and discussed by the Board regarding parking on-site. The "Plot Plan" submitted and reviewed shows one (1) parking space on-site (driveway being off Narragansett St.). The Board further finds that the applicant's representative stated that it is possible to create additional parking space on site.

The Board finds that the subject property has the ability to be on Town sewer and that the "Plot Plan -- Proposed Addition" submitted to the file shows that the property will be hooked to the sewer and the existing septic system will be abandoned.

In addition to the above findings, the Board finds that the proposed removal of existing deck and construction of a 24' x 16' addition to the rear of the dwelling will be in harmony with the general purpose and intent of this chapter and does include consideration set forth in Section 240-216 of the Code of Falmouth as follows:

- A. The site is adequate in terms of size for the proposed addition as there is no increase in the existing nonconforming setbacks, no new nonconforming setbacks created and the increase to lot coverage by structures is very minimal and is in keeping with the neighborhood's lot coverage.
- B. The site is suitable for the proposed use as the property is zoned residential and the dwelling will remain a single-family dwelling through the approval of this special permit.
- C. There will be an additional bedroom created by right after property is attached to the Town sewer. There is no change in the location of the existing driveway on site. The Board did discuss parking on-site and will condition additional spaces on-site to eliminate parking on Narragansett Street.
- D. The visual character of the subject property will be improved and there does not appear to be any impact on the neighborhood's visual character as there are several houses in the surrounding area that have been improved such as this; and there is no impact on any view or vista from the roadway or abutting properties.
- E. The sewage disposal system existing on-site will be abandoned according to CMR regulations once the property is attached to Town sewer.
- F. There are adequate utilities to subject property by virtue of an existing dwelling on site.
- G. The proposed addition to dwelling discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.
- H. There was no Site Plan Review required by the Planning Board and the referral submitted to the file from the Planning Department had no comment.
- I. The application is within compliance of all applicable sections of the zoning bylaws as represented, except for the nonconformities stated herein.
- J. The approval of this special permit does not include any affordable housing.

The Board of Appeals has weighed the effects of the proposed addition to the single-family dwelling as discussed herein and finds that the beneficial effects of granting this permit outweigh any negative effects there may be. The Board further finds that the granting of this permit will be in harmony with the purpose and intent of the Zoning Bylaw.

Member Potamis made a motion to Grant the Special Permit with conditions. Member Van Keuren seconded the motion.

### NOW THEREFORE

**BE IT RESOLVED**, that the Board of Appeals (herein referred to as Board) being of the opinion aforesaid and acting under the provisions of the Code of Falmouth voted **5 – 0 to Grant the Special Permit** to HSP Prime LLC (herein referred to as Applicant) under Section(s) 240-3 C. of the Code of Falmouth to remove the existing deck and construct a 24' x 16' addition to the rear of the pre-existing nonconforming single-family dwelling on subject property known as 272 Maravista Avenue, Teaticket, Massachusetts. This special permit shall be subject to the following conditions:

1. The removal of the existing deck, construction of the 24' x 16' addition with porch entry, all setbacks, lot coverage, height of addition and use of dwelling shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
  - "Plot Plan – Existing House" prepared for Lynne Harding 272 Maravista Avenue Falmouth, Massachusetts as drawn by BSS Design, Inc. – plan is dated June 21, 2016 with a final revision date of June 21, 2018 and with a Board date 'received' stamp of June 21, 2018;
  - "Plot Plan – Proposed Addition" prepared for Lynne Harding 272 Maravista Avenue Falmouth, Massachusetts as drawn by BSS Design, Inc. – plan is dated May 10, 2018 and is stamped and signed by Thomas Jackson Bunker, PLS – plan has a Board date 'received' stamp of May 11, 2018; and
  - Hand drawn or computer generated plans consisting of 'Existing Conditions' showing floor plans and elevations as existing with a Board date 'received' stamp of May 11, 2018; 'Basement Plan' with a Board date 'received' stamp of May 11, 2018; 'Proposed Elevations' (Narragansett St and Maravista Ave) with a Board date 'received' stamp of May 11, 2018; 'Proposed Elevations' (East and South) with a Board date 'received' stamp of May 11, 2018; and 'Proposed Floor Plan' with a Board date 'received' stamp of May 11, 2018.
2. There shall be no bedrooms or sleeping accommodations created within the basement area.
3. There shall be no more than three (3) bedrooms allowed on subject property without further review by the Board of Appeals.
4. The applicant shall create two (2) new additional parking spaces on-site. The additional spaces will be created by using a portion of the lot with pervious material such as stone or clam shells (as examples). The additional parking spaces will not be lawn, but shall be designated parking. The intent is to add additional parking for increase in bedrooms and to eliminate parking on roadway.
5. The applicant shall install no less than two (2) drywells on subject property. Said location of drywells will be designated by project engineer and shown on an as-built plan 'post construction'.
6. Due to the addition of a third bedroom, there shall be no occupancy until such time that the subject property is attached to the Town sewer.
7. The applicant shall submit to the Board of Appeals prior to final sign-off by Building and/or Zoning Administrator an 'as-built' post construction so as to show all porches, setbacks, lot coverage, the two (2) drywells conditioned and additional parking spaces as conditioned above.

8. Any deviation, no matter how minor, from plans submitted and approved, orally or in writing, by this Board, shall be submitted to the Board for approval prior to implementation of said change. Minor changes may be administratively approved by the Zoning Administrator.
9. 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.)
10. This permit shall lapse three (3) 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 Board of Appeals.

Decision of the Falmouth Zoning Board of Appeals Continued:

Special Permit Number:       **037-18**

Applicant:                       **HSP PRIME LLC of Annapolis, MD**

Subject Property:               **272 Maravista Avenue, Teaticket, Massachusetts  
Map 39A Section 02 Parcel 000 Lot 028**

Action:                       The Board of Appeals, by the signature below, being present, certifies the vote of the Board as follows for the above referenced:

Vote:                         5 to 0 to Grant the Special Permit as represented to the Board, based on the Findings stated herein and with the above stated Conditions.



**Terrence J. Hurrie, Vice Chairman, Board of Appeals**

**RECEIVED**

**JUN 29 2018**

FALMOUTH TOWN CLERK



**Date Filed With Town Clerk**

Notice is hereby given that any appeal from this Decision shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Falmouth Town Clerk.