



TOWN OF FALMOUTH  
ZONING BOARD OF APPEALS  
DECISION

SPECIAL PERMIT NO: 003-19  
APPLICANT/OWNER: Patricia A. Murphy and Caitlin R. Murphy  
386 Maravista Avenue, Teaticket, Massachusetts  
SUBJECT PROPERTY: 386 Maravista Avenue, Teaticket, Massachusetts  
Assessor's Map: Map 46A, Section 07, Parcel 000, Lot 011  
DEED/CERTIFICATE: Book# 30557 Page# 0045  
SUMMARY: Special Permit granted with conditions

PROCEDURAL HISTORY

1. An application was filed on January 11, 2019, with the Zoning Board of Appeals, for a Special Permit, pursuant to Section(s) 240-3 (C) of the Code of Falmouth, to remove an existing deck, and construct a three-season room with deck/landing, plus stairs with access to deck above, at 386 Maravista Avenue, Teaticket, Massachusetts (the "Premises").
2. Notice was duly given, as required by M.G.L. Ch. 40 A, § 11, including notices mailed to all persons deemed to be affected thereby, as they appear on the most recent tax list.
3. The hearing was opened on February 21, 2019. Board members Terrence J. Hurrie, (Chairman), Kenneth H. Foreman (Vice Chairman), Edward Van Keuren (Member), Robert Dugan (Associate), and Gerald Potamis (Associate) were present. Mr. Van Keuren was appointed Acting Clerk. Mr. Potamis and Mr. Dugan were appointed voting members for the hearing.
4. Appearing before the Board was Terrance E. Quinn, Terrance E. Quinn Construction Co., Falmouth, MA, representing the Applicants.
5. The documents and information received by the Zoning Board of Appeals, are on file in the office at Town Hall, as set forth below:

Letters/E-mails from Abutters/Interested Parties

- None

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

- None

Letters/Referrals/E-mails from Town Departments

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

- Engineering comments dated 2/8/19
- Conservation Commission comments, dated 1/8/19
- Board of Health comments, dated 2/12/19
- Water comment, dated 1-15-2019
- Assessors comments, dated 1/22/19
- Fire Department, no comments, dated 1/14/19
- Planning, no comments, dated 1/14/19
- Decision by the Zoning Board of Appeals, filed with the Town Clerk on December 20, 2001

Plans submitted by Applicant/Applicant's Representative

- "Plot Plan of Land, Prepared for Caitlin and Patricia Murphy, 386 Maravista Avenue, Falmouth, MA, prepared by John Doyle, PLS, 170 Cloverfield Way, E. Falmouth, MA, dated 11-17-17
- "Existing 1<sup>st</sup> Floor Plan, 386 Maravista Ave, E. Falmouth, MA, date stamped received Jan 11, 2019
- "Murphy Residence, 2<sup>nd</sup> Floor Existing Plan, 386 Maravista Ave, E. Falmouth, MA, date stamped received Jan 28, 2019
- "Murphy Residence, 3 Season Room Addition, Sheet A1, A2, and S1", prepared by Designs by SPB, Pocasset, MA, dated 5-24-2018
  - "Murphy Residence, 3 Season Room Addition, Sheet A1, prepared by Designs by SPB, Pocasset, MA, dated 5-24-2018, showing building height, date stamped received, Jan 28, 2019

February 21, 2019

Terrance Quinn appeared before the Board, representing Patricia A. Murphy and Caitlin R. Murphy, 386 Maravista Avenue, Teaticket, Massachusetts (the "Applicants"). Mr. Quinn stated that the existing lot coverage by structures is 26.29%, and that this will be reduced to 23.41%, by removing the existing deck, and creating a single-story, three-season room, with a small landing/deck, plus a deck above. He reported that the deck will be accessed by an exterior set of stairs. Mr. Quinn stated that they are willing to comply with the engineering comment, and install a drywell to catch roof runoff.

Chairman Hurrie asked for any public comment in support of, or opposition to, the proposed project. No one appeared.

Mr. Potamis made a motion to close the hearing. Mr. Foreman seconded the motion. The motion carried 5-0.

Chairman Hurrie closed the hearing.

### FINDINGS

The Zoning Board of Appeals carefully considered the facts and evidence submitted for the hearing, and made the following findings:

The subject site is located at 386 Maravista Avenue, Teaticket, Massachusetts (the "Premises"), and comprises 7,200 square feet of area, including Lots 11, 12 and 13 in the Residential C zoning district, as well as the Little Pond Coastal Pond Overlay, and Search and Rescue Districts. Residential C zoning requires a minimum lot area of 40,000 square feet. The Premises is sited at the corner of Maravista Avenue and Ardmore Street, with 90.00 feet of street frontage on Ardmore Street, and 80 feet of street frontage on Maravista Avenue, in a district requiring a minimum 100 feet of frontage and lot width. The existing dwelling is sited 16.7 feet from the north, 33.9 feet from the east side lot lines. The dwelling is sited 16.6 feet from the west street lot line (Maravista Avenue) and 14.1 feet from the south street lot line (Ardmore Street). The Premises is also improved by a 12.4-foot by 10.3-foot shed, sited 3.2 feet from the north, and approximately 2.5 feet from the east side lot lines. The Residential C minimum setback for from one street, for a dwelling, is 25 feet, and the minimum setback from the side and rear lot lines for the dwelling, or a shed over 100 square feet, is 10 feet. The Premises is nonconforming due to deficient lot area, deficient street frontage and lot width, encroachment of the dwelling into the west and south, and encroachment of the shed into the north and east side lot lines.

The proposed three-season room with a deck landing, and stairs to the landing above will be 33.9 feet from the east, 30 feet from the south, and 16.8 feet from the north, in compliance with the 10-foot setback requirement. The construction will be no closer to any side lot line than the existing dwelling, and conforms with district setback requirements.

No opposition was expressed regarding the proposal.

The Board thereby found that the proposed changes to the pre-existing nonconforming dwellings were therefore not substantially more detrimental to the neighborhood than the existing nonconforming dwellings.

In addition to the above findings, the Board finds that the proposed construction 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, as follows:

A. The site is adequate, in terms of size, for the proposed use. The lot coverage by structures will be reduced from 26.29% to 23.41%, and the lot coverage by structures/ paving/parking will be reduced from 30 % to 27.11%, which is less than the 40% maximum. While the proposal will be exceeding the 20% lot coverage by structures, the Board found that that condition was existing, and was being improved.

B. The site is suitable for the proposed use, as the property is zoned Residential C, with neighboring single-family residences.

- C. There will be no impact on traffic flow and safety.
- D. There does not appear to be any impact on the visual character of the neighborhood, or view or vista from the roadway or abutting properties, given that the addition is a single-story, and is sited to the east (rear) of the dwelling.
- E. There will be no impact on sewage disposal, source of water, and drainage; the dwelling is on Town sewer.
- G. The reconstruction discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.
- H. There was no requirement for review by the Planning Board, and they issued no comment on January 14, 2019.
- I. The application is in compliance with all applicable sections of the Zoning By-Laws as represented, except for the nonconformities stated herein.
- J. The approval of this special permit does not include any affordable housing.

The Zoning Board of Appeals weighed the effects of the proposed reconstruction at the Premises, as discussed herein, and found that the beneficial effects of granting this permit outweigh any negative effects there may be. The Board further found that the granting of this 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 than the existing nonconforming use to the neighborhood.

Mr. Potamis made a motion to grant the Special Permit with conditions. Mr. Foreman seconded the motion; with a unanimous 5-0 vote.

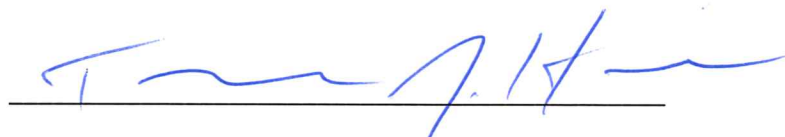
NOW THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals (herein referred to as the "Board") being of the opinion aforesaid, and acting under the provisions of the Code of Falmouth, voted 5 to 0, to grant a special permit under Section(s) 240-3 of the Code of Falmouth, to allow a single-story addition. This special permit shall be subject to the following conditions:

1. The construction shall be substantially as shown on the plans submitted and reviewed by the Board, as follows:
  - "Plot Plan of Land, Prepared for Caitlin and Patricia Murphy, 386 Maravista Avenue, Falmouth, MA, prepared by John Doyle, PLS, 170 Cloverfield Way, E. Falmouth, MA, dated 11-17-17
  - "Existing 1st Floor Plan, 386 Maravista Ave, E. Falmouth, MA, date stamped received Jan 11, 2019
  - "Murphy Residence, 2nd Floor Existing Plan, 386 Maravista Ave, E. Falmouth, MA, date stamped received Jan 28, 2019
  - "Murphy Residence, 3 Season Room Addition, Sheet A1, A2, and S1", prepared by Designs by SPB, Pocasset, MA, dated 5-24-2018
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2. The three season room shall be 14 feet by 13.75 feet, with a 13.75 foot by 6-foot deck/landing. The addition shall also have a set of stairs, at the north side of the three-season room, measuring 3 feet by 11.7 feet. There shall also be a deck above the three-season room.
3. The maximum height of the dwelling shall remain at 21 feet.
4. Any deviation, no matter how minor, from plans submitted and approved, shall be submitted to the Board for approval, prior to implementation of said change. Minor changes may be administratively approved by the Zoning Administrator.
5. The Applicant shall install a dry well, to manage stormwater from the roof, and comply with any Town Boards or departments having jurisdiction over the development.
6. 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, is recorded in Barnstable Registry of Deeds, or that an appeal has been filed within such time. (Any person exercising rights under a duly appealed special permit does so at risk that a court may reverse the permit, and that any construction performed under the permit may be ordered undone.)
8. 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 Zoning Board of Appeals.

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

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, Chairman, Zoning Board of Appeals

RECEIVED  
MAR 5, 2019 AM 9:30  
TOWN CLERK 

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Date Filed With Town Clerk