

**TOWN OF CONCORD
BOARD OF APPEALS
TOWN HOUSE**

Please take notice that in the matter of the APPLICATION OF SARAH AND WILLIAM MURPHY for a Special Permit under Sections 7.1.3, 7.1.5, and 11.6 of the Zoning Bylaw to construct a 1,198 sq. ft. addition on the existing 1,494 sq. ft. non-conforming dwelling that increases the gross floor area by more than 50% at 368 Old Marlborough Road (Parcel #3767-2), Concord, Massachusetts, the Board of Appeals has rendered a decision GRANTING said application, and the record therein has this day been filed with the Town Clerk, Town House, Concord, Massachusetts. Appeals, if any, shall be made pursuant to Section 17 of the Zoning Act, Chapter 40A of the Massachusetts General Laws, and shall be filed within 20 days after the date of this notice.



Heather C. Carey, Administrative Assistant
On behalf of the Zoning Board of Appeals

DATE 7/20/22

**TOWN OF CONCORD
BOARD OF APPEALS**

DECISION of the Zoning Board of Appeals (the Board) on APPLICATION OF SARAH AND WILLIAM MURPHY for a Special Permit under Sections 7.1.3, 7.1.5, and 11.6 of the Zoning Bylaw to construct a 1,198 sq. ft. addition on the existing 1,494 sq. ft. non-conforming dwelling that increases the gross floor area by more than 50% at 368 Old Marlborough Road (Parcel #3767-2).

This decision is in response to an application filed on May 2, 2022. After causing notice of the time and place of the public hearing and of the subject matter thereof to be published in *The Concord Journal* on May 26, 2022, and June 2, 2022, posted and mailed to the Applicant, abutters and other parties of interest as required by law, the public hearing was opened on June 9, 2022.

After due consideration of the application, the record, a presentation by the Applicant, and based upon review of the issues set forth herein, the Board voted 3 to 0 (Akehurst-Moore, Faiia, Kindermans) to **GRANT** approval of the Special Permit with conditions based on the following findings:

The Applicant is seeking a Special Permit to construct a 1,198 sq. ft. addition on the existing 1,494 sq. ft. non-conforming dwelling that increases the gross floor area by more than 50%. The property is in Residence C Zoning District and has a non-conforming front setback of 16.4 ft. (20 ft. required) and non-conforming side setback of 10.8 ft. (15 ft. required). The Applicant is proposing to remove an existing screened porch and side entry and construct an attached two-car garage with room above, a connecting side entry and mudroom, and to extend the family room to the rear of the house. The maximum gross floor area allowed without a special permit under Section 7.1.5 for the lot is 2,241 sq. ft.

In reaching its decision, the Board reviewed the application, plans, and supporting materials.

Pursuant to Zoning Bylaw Section 7.1.3, the Board determined that a Special Permit was required because the lot has non-conforming front and side setbacks for Residence C Zoning District. The Board found that the proposed additions do not increase the non-conformity and are not substantially more detrimental than the existing non-conforming structure to the neighborhood.

Pursuant to Section 7.1.5, the Board determined that a Special Permit was required because the proposed addition increases the gross floor area by more than fifty percent (50%) of the existing structure. The Board found that although there is a big jump in square footage from the existing dwelling to the proposed, it is in keeping with the other houses in the neighborhood and will not be substantially more detrimental than the existing.

Pursuant to Section 11.6, the Board found that the adverse effects of the proposed increase in Gross Floor Area will not outweigh its beneficial impacts to the public interest, the Town and the neighborhood, in view of the particular characteristics of the Site, and of the proposal in relation to that Site, and the following:

11.6.1 Impacts on economic and community needs;

The Board found the proposed increase in Gross Floor Area will not have a significant negative impact on economic and community needs.

11.6.2 Traffic flow and safety concerns, including parking and loading;

The Board found that the proposed increase in Gross Floor Area does not create any significant safety concerns, including parking. A loading space is not required.

11.6.3 Adequacy of utilities and other public services;

The Board found that the proposed increase in Gross Floor Area will have minimal effect on utilities and other public services.

11.6.4 Impacts on neighborhood character;

The Board found that although there is a big jump in square footage from the existing dwelling to the proposed, it is in keeping with the other houses in the neighborhood and will not be substantially more detrimental than the existing.

11.6.5 Impacts on the natural environment;

The Board found that the proposed increase in Gross Floor Area will have minimal impact on the natural environment.

11.6.6 Fiscal impacts, including impacts on town services, the tax base and employment.

The Board found that the proposed increase in Gross Floor Area will not have a significant fiscal impact on Town services, the tax base and employment.

The Board grants the Special Permit subject to the following plans and conditions:

1. Approval is based on the following plans prepared for 368 Old Marlboro Road:

Elise Braceras Stone, Architects, 288 Old Marlboro Road, Concord, MA, 01742

- a. Floor Plans, A-1 and A-2, dated April 28, 2022
- b. Elevations, A-3 and A-4, dated April 28, 2022

Places Associates, Inc., 256 Great Road, Suite 4, Littleton, MA, 01460

- c. Proposed Plot Plan, dated April 27, 2022

2. Prior to the issuance of a Certificate of Occupancy, the Applicant shall submit an As-Built Certified Plot Plan to the Building Inspections Division demonstrating that the structure meets the setbacks as approved under this Decision and shown on the approved plot plan. All setback measurements shall be taken from the lot lines to the closest point of the structure, including overhangs.

3. This Special Permit shall lapse within two (2) years, which shall not include such time required to pursue or await the determination of an appeal, from the date of grant thereof, if a substantial use has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

4. **Violation of any of the conditions of this Decision shall be grounds for revocation of the Decision, or any building or occupancy permit granted hereunder. If at any time the structure is not in compliance with the Decision and any permit issued by the Town, the Building Commissioner may order that the project be stopped until the non-compliance is corrected.**
5. **By acceptance of this Special Permit, the Applicant acknowledges the binding effect of the conditions of the Decision. Prior to the issuance of a Building Permit, the Applicant shall record with the Middlesex South Registry of Deeds the Special Permit and provide a copy of the recorded decision to the Building Inspections Division.**

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TOWN OF CONCORD
BOARD OF APPEALS



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THE BOARD OF APPEALS CERTIFIES as follows:

Name and Address of Owner:

Sarah and William Murphy

368 Old Marlboro Road

Concord, MA 01742

Name and Address of Applicant:

Sarah and William Murphy

368 Old Marlboro Road

Concord, MA 01742

Property Identification:

368 Old Marlboro Road

Concord, MA 01742

Parcel ID: 3767 - 2

D74322/494

This application filed on May 2, 2022 and all subsequent proceedings comply with the requirements of General Laws, Chapter 40A.

An appeal from this decision shall be made pursuant to General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date of filing such decision or notice thereof in the office of the Town Clerk.


Theo Kindermans, Clerk
On Behalf of the Zoning Board of Appeals

I, Kaari Mai Tari, Town Clerk for the Town of Concord, Massachusetts hereby certify that the attached decision has been filed in my office.


Kaari Mai Tari, Town Clerk

July 20, 2022
Date

I, Kaari Mai Tari, Town Clerk for the Town of Concord, Massachusetts hereby certify that no notice of appeal was received during the twenty days next after receipt of the notice from the Zoning Board of Appeals of the approval of the Special Permit, or, if an appeal was taken, that a final decree has been entered by the court sustaining the approval of the Special Permit or the appeal taken has been dismissed by the court.

Date of final decree/dismissal: _____


Kaari Mai Tari, Town Clerk

August 10, 2022
Date