

CITY OF FRAMINGHAM

ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

CITY OF FRAMINGHAM
CITY CLERK'S OFFICE

BOARD OF APPEALS CASE NO. 17-57

2018 JAN 23 P 4: 30

PETITION OF JOHN D. MURRAY

DATE OF DECISION: JANUARY 9, 2018

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of JOHN D. MURRAY (hereinafter the Applicant), for property located at 254 FRANKLIN STREET. This Decision is in response to a Petition for a Finding for the addition on a pre-existing nonconforming multifamily structure as required by the Zoning By-Law (hereinafter the Application).

2. Applicant/Property Owner

John. D. Murray
72 Border Road
Needham, MA 02492

3. Location

Property is located at 254 Franklin Street and identified by Assessors' Parcel IDs 120-68-8506-001/120-68-8506-002/120-68-8506-003/120-68-8506-004 (hereinafter the Site).

4. Board Action

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on January 9, 2018 the Board voted to GRANT the requested FINDING by a unanimous vote in favor of the petition of three (3) members sitting on the Application. The record of the vote is stated as follows:

PHILIP R. OTTAVIANI, JR.	YES
SUSAN S. CRAIGHEAD	YES
STEPHEN MELTZER	YES

5. Proceedings

The Application was received by the Board on December 15, 2017 pursuant to MGL, Ch. 40A, §6, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on January 9, 2018 at 7:30 P.M. in the Ablondi Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Susan S. Craighead, Stephen Meltzer, and Alternates Edward "Ted" Cosgrove, Joseph Norton, and Rick McKenna were present throughout the proceedings. Due to potential imminent changes to the makeup of the Board, Mr. Ottaviani appointed Mr. Cosgrove, Mr. Norton, and Mr. McKenna as alternates. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

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The property owner, Mr. John D. Murray, was present and explained the request to add a dormer to his existing nonconforming building which houses four condominium units. He explained that there was a fire in the basement in October 2017, which required a safety check by the Fire Department that resulted in holes in the roof, ceiling, and doors. He explained that the existing third floor unit floor plan required residents to travel to the second floor to use the bathroom. The proposed dormer would house a bathroom addition and would not result in any footprint, setback or ridge line changes. Board members voiced no concern.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

- 6.1. Application filed with the Building Official for an addition to an existing nonconforming multifamily structure, dated December 8, 2017.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on December 15, 2017.
- 6.3. Filing fee in the amount of \$300.00.
- 6.4. Project description prepared by the Applicant, submitted with the application on December 15, 2017.
- 6.5. Assessor records for each of the four units.
- 6.6. Correspondence between Applicant and Dept. of Public Health, dated 10/18/17.
- 6.7. Mortgage Inspection Plan prepared by Boston Survey, Inc., PO Box 290220, Charlestown, Mass., dated December 15, 2005.
- 6.8. Plan set entitled "Plan of Land in Framingham, Mass." depicting, Site Plan, Floor Plans (basement, first, second and third floor); Existing First, Second, Third Floor Plans/Existing Elevations (A-1); Existing/Proposed First, Second, Third, & Roof Plans (A-2); Existing/Proposed Roof Framing, Elevation, Dormer Cross Section (A-3); General Notes & Typical Details (S-1); First Floor & Second Floor Framing Plans (S-2); and Third Floor & Roof Framing Plans (S-3), prepared by Cowen Associates, 28 Vesta Road, Natick, MA 01760, and dated December 7, 2017. Owner John Murray provided handwritten notations on Site Plan showing existing setback dimensions, dated 12/8/17.

Exhibit 6.8 shall be hereinafter referred to as the "Plans".

7. Findings and Conclusions

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

- 7.1. The property is located within the General Residence (G) zoning district.
- 7.2. On December 8, 2017 the Building Commissioner denied the application for an addition and determined that a Finding was required for the proposed addition under §I.D.8.b of the Zoning By-Law.
- 7.3. On December 15, 2017, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Finding pursuant to the By-law and M.G.L. c. 40A, §6.

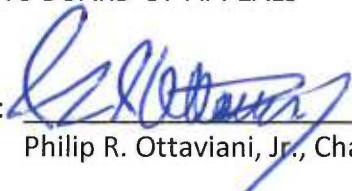
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on December 25, 2017 and January 1, 2018 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11.
- 7.5. A Finding is necessary because the property is lawfully pre-existing non-conforming with respect to lot area, frontage, front setback, and use.
- 7.6. G.L. c. 40A, §6 applies to pre-existing, nonconforming uses or structures and requires a Finding when the nonconforming structure is extended or altered in such a way that the extension does not at all affect the nonconformity. *The Board finds that the proposed addition will not increase the nonconforming nature of the structure, and that it will not be substantially more detrimental to the area than the existing structure. The proposed dormer on the third floor will not impact the dimensional nonconformities of the structure, nor will it add any residential units to the building. The use will remain the same.*
- 7.7. The Board grants this Application with the following condition:
- 7.7.1. The addition shall be located and constructed as shown on the Plans.
- 7.8. This Decision applies only to the requested Finding. Other approvals or permits required by the By-Law, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision.
- 7.9. If the rights authorized by this Finding are not exercised within two years of the date of the filing of this Decision with the Town Clerk, said Finding shall lapse. If construction or substantial use has not commenced within this two-year period, the Applicant may request an extension by submitting a written Application to the Board which contains an explanation of good cause for the failure to exercise the rights of this Finding. A written request for an extension must be submitted to the Board at least 30 days prior to the expiration of the two-year period.
- 7.10. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of the recording, including recording information, shall be furnished to the Board and the Building Official.
- 7.11. The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the Town of Framingham.

8. Appeals

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, §17 and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

ZONING BOARD OF APPEALS

By: _____


Philip R. Ottaviani, Jr., Chairman

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