



Zoning Board of Appeals

Town Office Building
195 Main Street
Maynard, MA 01754

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MAYNARD TOWN CLERK

FINDINGS AND DECISION

Project Name: 54 Butler Avenue Map #18, Parcel 164

Petition No: ZBA 22-06

Type: Variance Request

Property Owner/Applicant: Derek & Geraldine Peters-Wiles
54 Butler Avenue
Maynard, MA. 01754

Type of Request: Variance

Current Zoning: General Residence (GR)

Lot Size: 8,000 square feet

Application Date: April 22, 2022

I. Description of Request:

The applicant is requested the Variance to construct an addition to an existing non-conforming structure. Per Section 5.1.4 of the Zoning By-laws (ZBL) a Variance is required because the encroachment exacerbates the non-conformity (failure to meet the required 15' eastern side setback) by moving closer to the property line from 11.8' to 11.5'. Consequently, the request would allow further encroachment of approximately 3 inches into the eastern side setback (Exhibit "A").

Table 1: Dimensional Requirements & Proposed Conditions

| Requirements | Existing | Required | Proposed |
|----------------------------|----------|-----------|-----------|
| Min Lot Size in SQFT | 8,000 | 7,000 | n/a |
| Max Building Coverage | 29% | 40% (Max) | 30.5% +/- |
| Setbacks SIDE RIGHT (east) | 11.8' | 15' | 11.5' |
| Setbacks SIDE LEFT | 38.5' | 15' | n/a |
| Setbacks FRONT | 5.4' | 25' | n/a |
| Setbacks REAR | 54' +/- | 15' | n/a |

II. Procedural History

1. Pursuant to Massachusetts General Law Chapter 40A, Section 10, an application for a Variance from the ZBL was submitted by the above-referenced owner and filed with the Zoning Board of Appeals (ZBA).
2. The applications were accompanied by a plan and survey.
3. A public hearing on the applications was held on May 23, 2022.
4. The application documentation and other submitted material were reviewed by Town Staff. There were no staff objections to the application.
5. At the public hearing, there were no public comments against the application.

III. Variance Criteria

Chapter 40A, Section 10 of the Massachusetts General Laws (MGL) require that before granting a Variance, the Board must make a determination (finding) that three conditions exist on the subject property:

1. The uniqueness relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

2. That a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.
3. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

IV. Findings of the Board and Decision

1. The ZBA deliberated and determined that the Variance request meets the criteria as detailed above in Section III. Specifically, the ZBA determined:
 - a. There is a uniqueness to the positioning of the structure that is atypical for the district.
 - b. Without the requested relief, the applicant is subject to a financial hardship by preventing modification to the residence that will bring the subject property more in aesthetic, scale, and functional harmony with the surrounding neighborhood.
 - c. The relief requested in this application is to allow a further setback reduction from 11.8' to 11.5'. The board determined this request has *de minimis* impact. Therefore, the requested relief does not substantially derogate from the intent or purpose of the ZBL.

A motion was made by Leslie Bryant and seconded by Page Czepiga to approve a Variance from the ZBL granting relief from the required 15-foot eastside setback that will result in an exacerbation of the existing nonconformity. Specifically, the nonconformity of the eastside setback will be increased from 11.8' to 11.5' (side yard setback).

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The Board voted as follows:


Paul Scheiner (Chair) Y

Leslie Bryant Y

John Courville Y

Page Czepiga Y

By a 4-0 vote, the ZBA approves the Variance as requested.



Paul Scheiner, Chair
For the Zoning Board of Appeals

5/26/2022

Date

****NOT VALID UNTIL CERTIFIED BY THE TOWN CLERK OF MAYNARD****

In accordance with Sec. 11 of Ch. 40A of Massachusetts General Law, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Maynard Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Attest: _____

Date: _____

Town Clerk

Exhibit "A"
Subject Property

