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TOWN OF MAYNARD
Zoning Board of Appeals
Office of Municipal Services

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SECOND TOWN CLERK

195 Main Street
Maynard, MA 01754
Tel 978-897-1302

OMS@TownofMaynard.net www.townofmaynard-ma.gov

Findings and Decision

Petition No: ZBA 21-08
Type: Special Permit
Property Owner/Applicant: Jamie L. Martin; Harold M. Tinney
Project Location: 16 Dix Road, Maynard MA 01754
Current Zoning: S-1 (Single Residence District)
Lot Size: 18,158 +- ft.²
Application Date: June 29, 2021

Description of Request: Consistent with Section 5.1.3.2 and Section 10.4.2 of the Zoning By-laws (ZBL), the petitioner is requested a Special Permit to allow the conversion of a pre-existing non-conforming accessory storage shed into a home office and exercise space within the S-1 Zoning District. The nonconformity consisted of encroachment into the rear setback (yard) by the accessory storage shed.

I. Procedural History

- a. Pursuant to Massachusetts General Law Chapter 40A, Section 10, an Application for a Special Permit (Exhibit A) per the ZBL was submitted by the above-referenced owner and filed with the Zoning Board of Appeals (ZBA) on June 29, 2021.
- b. The Building Commissioner determined that in order to convert the pre-existing non-conforming accessory storage shed into a home office and exercise space, a Special Permit must be granted by the ZBA per Section 5.1.3.2. The change in use of the structure from storage to office/exercise space is considered an increase in intensity of use, and therefore required a Special Permit from the ZBA.
- c. A public hearing on the Special Permit Application was held on July 26, 2021. Notice of the public hearing was published in the Beacon-Villager on July 8, 2021, and July 15, 2021, and sent to parties in interest, as required by statute, by certified mail, return receipt requested, according to the Assessors' Certified Abutters List.

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ZBA Decision: 7.27.2021
Project Name: 16 Dix Road
Project Number: ZBA 21-08
Version: 1.0
OMS Template: 15

- d. The application documentation and other submitted material were reviewed by Town Staff. There were no staff objections to the application.
- e. At the public hearing, abutters Diana and Marie Dahill and concerns over fitness classes at the property. The Applicant explained that the space would only be used by the residents of the subject property's single-family home. No abutters spoke in opposition to the Application.

II. Regulatory Criteria

Section 5.1.3.2 "Nonconforming Structures" of the ZBL 3.2.5 states that the Board of Appeals may award a Special Permit to reconstruct, extend, alter, or change a non-conforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing, non-conforming structure to the neighborhood. This includes an alteration of a structure to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

Section 10.4.2 of the ZBL states that to grant a Special Permit, the Board must make a finding that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in the ZBL, the determination shall include consideration of each of the following:

- a. Social, economic, or community needs which are served by the proposal.
- b. Traffic flow and safety, including parking and loading.
- c. Adequacy of utilities and other public services.
- d. Neighborhood character and social structures.
- e. Impacts on the natural environment.
- f. Potential fiscal impact, including impact on town services, tax base, and employment.

III. Vote of the Board and Decision

The ZBA deliberated, considered each of the Special Permit criteria, and determined that the request meets the criteria as detailed above in Section II. Specifically, the ZBA determined:

- a. That the proposed use is consistent with the Special Permit criteria listed in Section II as it creates no impact on the surrounding neighborhood.

A motion was made by Leslie Bryant and seconded by Peter Winnett to grant a Special

Permit to allow the conversion of a pre-existing, non-conforming accessory structure into a residential home office and exercise space at 16 Dix Road. The approval is subject to the following Condition of Approval:

- a. To the extent that the project requires a permit, license or other approval from any board, commission, official or other agency or agent of the Town of Maynard, or from any agency of the Commonwealth or the federal government, the Applicant shall make an appropriate application for and obtain the same.

The Board voted as follows ("Y" to approve):

Paul Scheiner (Chair)	Y
John Courville	Y
Jerry Culbert	Y
Leslie Bryant	Y
Peter Winnett	Y

Paul Scheiner
Paul Scheiner, Chair
For the Zoning Board of Appeals

7/29/21
Date

NOT VALID UNTIL CERTIFIED BY THE TOWN CLERK OF MAYNARD

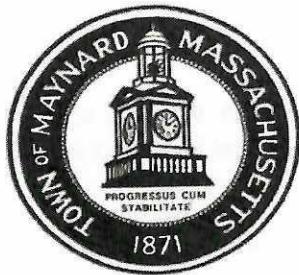
In accordance with Sec. 11 of Ch. 40A of Massachusetts General Law, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Maynard Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or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

Attest: _____

Date: _____

Joanna Bilotta, Town Clerk

Please note: this Decision must be recorded with the Registry of Deeds prior to applying for building permits.



Case No: _____
 Fees Paid: _____

**TOWN OF MAYNARD
 ZONING BOARD OF APPEALS**

PETITION FOR HEARING

This Petition must be completed, signed, and submitted with the filing fee and supporting documentation by the Petitioner or his representative in accordance with the procedures as set forth on the attachments to this petition.

Address of Property 16 Dix Road, Maynard, MA 01754 (Property No.: 015.0-0000-0287.0)

Characteristics of Property: Lot Area _____ Present Use Single Family Residence

Assessor's Map # _____ Parcel # 95 Zoning District 1

Name of Petitioner Jamie L. Martin Phone # (518) 354-3048

Mailing Address 16 Dix Road, Maynard, MA 01754

Name of Owner Jamie L. Martin, Harold M. Tinney Phone # (518) 354-3048
 (If not Petitioner)
 Mailing Address 16 Dix Road, Maynard, MA 01754

Petition is for An Appeal from the Decision of the Building Commissioner

(Check One) A Variance
 A Special Permit
 Other Specify _____

Applicable Section of the Zoning By-Laws: 5.1.3.2

Summarize nature and justification of petition (Please attach full explanation):

Increase use of space for remote home-office and exercise space

I hereby request a hearing before the Zoning Board of Appeals with reference to the above Petition.

Signature of Petitioner (or representative) J. L. Martin

Address (if not Petitioner) 16 Dix Road, Maynard, MA 01754

Telephone Number (518) 354-3048

Signature of Owner, if other than Petitioner _____

USE OF PRE-EXISTING NONCONFORMING STRUCTURE: ACCESSORY BUILDING

I. The particular type of Use proposed for the Structure

The particular type of Use proposed for the Structure, an accessory building on Parcel #95 in District #1, is as a place for remote work/home office in a recognized lawful profession conducted by resident occupants; and as an exercise space for the resident occupants of said dwelling. The property number is: 008.0-0000-0095.0.

Please note, the space will not be used as a place of work or as an exercise space for any non-resident occupants of said dwelling. The purpose sought for this request for a finding of change or increased intensity of use is for the personal use of the resident occupants of said dwelling only. The main and primary purpose of this dwelling will be residential.

II. The conditions and character of operations of the proposed Use show that it will be in harmony with the general purpose and intent of the District and the By-Laws

The conditions and character of operations of the proposed Use, as a remote work/home office and exercise space, show that it will be in harmony with the general purpose and intent of the District and the By-Laws.

Parcel #95 (Property No.: 008.0-0000-0095.0), located in District 1, will maintain the main and primary purpose of the dwelling as residential.

In Accordance with the Protective Zoning Bylaws, Section 3.2.1:

"An accessory use located on the same lot with, and customarily incidental to, any of uses set forth in the Table of Uses as allowed or allowed by Special Permit shall be permitted; provided, that such accessory use shall not be detrimental to a residential neighborhood and shall not change the outward character of the district."

Additionally, Section 3.2.4 reads as follows:

"Any of the customary home occupations shall be allowed as of right, conducted by resident occupants only, including, but not limited to, the work of any member of a recognized lawful profession, subject to the following...[omitted as the proposed use is neither for hairdressing, nor real estate]."

The intended use of the Pre-existing nonconforming structure on Parcel #95 (Property No.: 008.0-0000-0095.0) is as a space for remote work/home office in a recognized lawful profession

NEW ENGLAND LAND SURVEY
Professional Land Surveyors

710 MAIN STREET
N.Oxford, MA 01537

PHONE: (508) 987-0025

FAX: (508) 438-6604

REGISTRY MIDDLESEX SOUTH

BASED UPON DOCUMENTATION PROVIDED, REQUIRED MEASUREMENTS WERE MADE OF THE FRONTOAGE AND BUILDING(S) SHOWN ON THIS MORTGAGE INSPECTION PLAN. IN OUR JUDGEMENT ALL VISIBLE EASEMENTS ARE SHOWN AND THERE ARE NO VIOLATIONS OF ZONING REQUIREMENTS REGARDING DWELLING STRUCTURES TO PROPERTY LINE OFFSETS (UNLESS OTHERWISE NOTED IN DRAWING BELOW). NOTE: NOT DEFINED ARE ABOVE GROUND POOLS, DRIVEWAYS, OR SHEDS WITH NO FOUNDATIONS, ETC. THIS IS A MORTGAGE INSPECTION PLAN; NOT AN INSTRUMENT SURVEY. DO NOT USE TO ERECT FENCES, OTHER BOUNDARY STRUCTURES, OR TO PLANT SHRUBS. LOCATION OF THE STRUCTURE(S) SHOWN HEREON IS EITHER IN COMPLIANCE WITH LOCAL ZONING FOR PROPERTY LINE OFFSET REQUIREMENTS, OR IS EXEMPT FROM VIOLATION ENFORCEMENT ACTION UNDER MASS. G.L. TITLE VII, CHAP. 40A, SEC. 7, UNLESS OTHERWISE NOTED. THIS CERTIFICATION IS NON-TRANSFERABLE. THE ABOVE CERTIFICATIONS ARE MADE WITH THE PROVISION THAT THE INFORMATION PROVIDED IS ACCURATE AND THAT THE MEASUREMENTS USED ARE ACCURATELY LOCATED IN RELATION TO THE PROPERTY LINES.

MORTGAGE INSPECTION PLAN

NAME HAROLD M. TINNEY & JAMIE L. MARTIN

LOCATION 16 DIX ROAD

MAYNARD, MA

SCALE 1"=50' DATE 04/03/20

20MIP03845

CERTIFY TO: _____

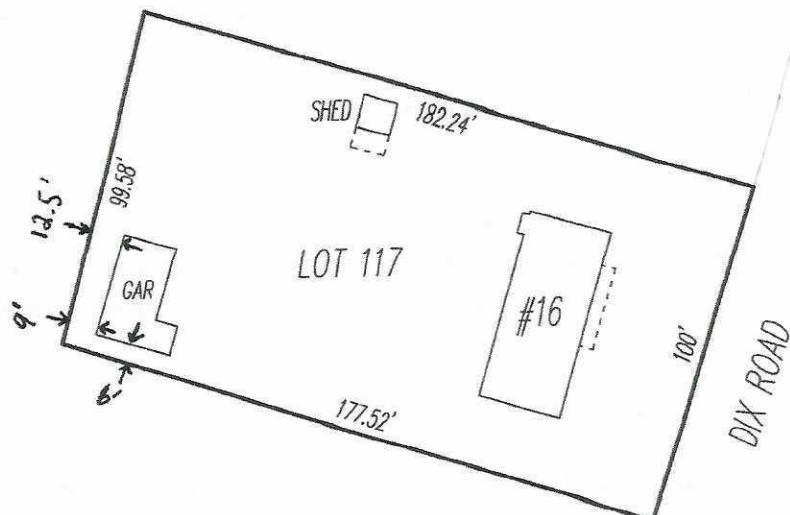
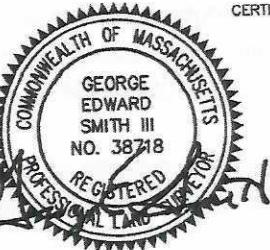
DEED REFERENCE: CERT 254754

PLAN REFERENCE: 649/115

WE CERTIFY THAT THE BUILDING(S) ARE NOT WITHIN THE SPECIAL FLOOD HAZARD AREA. SEE FIRM:

2507C0354F DTD: 7/7/14

FLOOD HAZARD ZONE HAS BEEN DETERMINED BY SCALE AND IS NOT NECESSARILY ACCURATE, UNTIL DEFINITIVE PLANS ARE ISSUED, BY HUD AND/OR A VERTICAL CONTROL SURVEY IS PERFORMED, PRECISE ELEVATIONS CANNOT BE DETERMINED.



REQUESTED BY: LISS LAW
DRAWN BY: CBC
FIELD BY: AJD
CHECKED BY: GES
FILE: 20MIP03845

