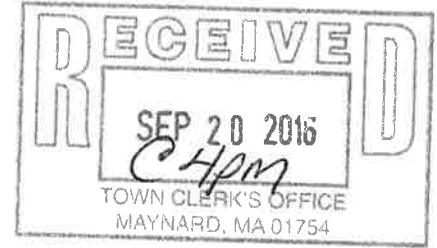




Zoning Board of Appeals

Town Office Building
195 Main Street
Maynard, MA 01754



FINDINGS AND DECISION

Petition of Bill Duggan for Variances to provide relief from the Zoning By-laws to allow construction of a rear porch.

Property Location: 7 Summer Hill Road, Maynard, MA
Date of Decision: August 29, 2016
Petition Number: ZB 16-05

Procedural History

1. Pursuant to Massachusetts General Law Chapter 40A, Section 10, an application for a Variance from the Maynard Zoning By-laws was submitted by the above-referenced owner and filed with the Zoning Board of Appeals (ZBA) on July 24, 2016. The applicant requested a Variance from the Zoning By-laws that would:
 - a. Create a non-conforming structure (Variance required by Section 5.1.4).
 - b. Extend a non-conforming structure. (Variance required by Section 5.1.4).
2. A public hearing on the Variance application was held on August 29, 2016.
3. The Variance application was accompanied by a plan (survey) entitled "Mortgage Inspection Plan" prepared by New England Land Survey and dated February 20, 2014.
4. The application documentation and other submitted material was reviewed by the ZBA, The Building Commissioner and the Town Planner. Throughout its deliberations the ZBA has been mindful of the statements of the applicant and the representatives and the comments of the general public all as made a public hearing.

Findings

a. General

1. The subject property is located at 7 Summer Hill Rd Maynard, MA 01754, Maynard, Map 14-Parcel 15. The owners reside on the property. The property consists of approximately 9,844 square feet and is zoned "Single Residence District 2" (SR2).
2. A minimum lot size of 20,000 square feet is required within the SR2 District.
3. The applicant was requesting Variances to construct a covered porch in the rear yard. The Variances were required as the plan proposed:
 - a. A reduced rear setback of 24 feet (30 foot required by Section 4.1.1 of the Zoning By-laws).
 - b. Lot coverage of 1,912 square feet (19.4%) to 2,038 (21.7%) square feet (Maximum lot coverage is 15% per Section of the Zoning By-laws).

b. 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 permit granting authority specifically finds that owing to circumstances 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.

c. Specific findings

The Board considered each required finding on its own merit.

1. The Board determined that unusual circumstances affecting land or structures (as further defined by statute) did not exist. **Condition not met.**

2. The Board determined that a hardship (as further defined by statute) did not exist. **Condition not met.**

3. The Board determined that granting the Variance would not result in a substantial detriment to the public good nor would granting the variance also would derogate the intent and purpose of the zoning by-law. **Condition met.**

Decision

In view of the foregoing and by a 3-1 vote, The Zoning Board of Appeals hereby has determined the conditions as required by ZBA Chapter 40A, Section 10 of the Massachusetts General Law have not been met and the applicant's request for a Variance is **denied**.

Record of Vote

Paul Scheiner (Chair)	<u> N </u>
Marilyn Messenger	<u> N </u>
Leslie Bryant	<u> N </u>
Jamal De Vita	<u> Y </u>



 Paul Scheiner, Chair
 For the Zoning Board of Appeals

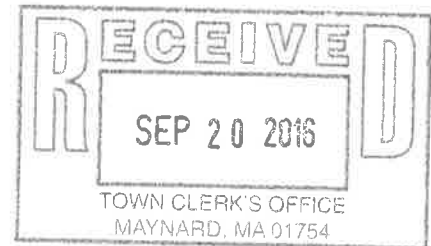
17 Sept 2016

 Date

Filed with the Town Clerk on: 9/20/16


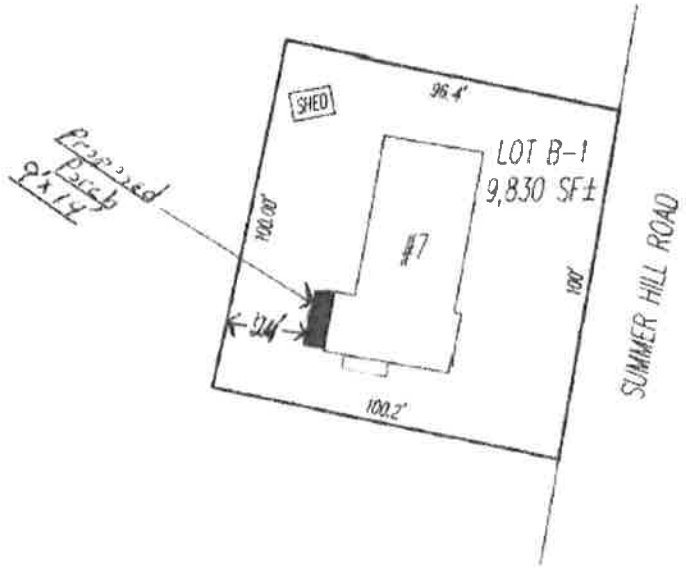
Kiana J. Donnan

 Town Clerk / Asst. Town Clerk



CC: Bill Duggan
 Lisa L. Mead, Town Attorney
 Kevin Sweet, Town Administrator
 Andrew Scribner-MacLean, Town Administrator
 Bill Nemser, Town Planner

Exhibit "A"

<p>NEW ENGLAND LAND SURVEY Professional Land Surveyors  25 SUTTON AVENUE Oxford, MA 01540 PHONE: (508) 987-0026 FAX: (508) 234-7723 REGISTRY SOUTHERN MIDDLESEX</p>	<p>MORTGAGE INSPECTION PLAN</p>	<p>NAME <u>WILLIAM DUGGAN AND JEAN DUGGAN</u></p>	<p>096031P.1</p>
		<p>LOCATION <u>7 SUMMER HILL ROAD</u></p>	
		<p>MAYNARD, MA</p>	
	<p>SCALE <u>1"=40'</u></p>	<p>DATE <u>2/20/2014</u></p>	
<p>BASED UPON DOCUMENTATION PROVIDED, REQUIRED MEASUREMENTS WERE MADE OF THE FRONTAGE AND BUILDING(S) SHOWN ON THIS MORTGAGE INSPECTION PLAN. IN OUR JUDGMENT ALL VISIBLE ENCUMBRANCES ARE SHOWN AND THERE ARE NO VIOLATIONS OF ZONING REQUIREMENTS REGARDING STRUCTURES TO PROPERTY LINE OFFSETS (UNLESS OTHERWISE NOTED IN DRAWINGS BELOW). NOTE: NOT DEFINED ARE ABOVEGROUND POOLS, DRIVEWAYS, OR SHEDS WITH NO FOUNDATIONS. 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.</p>		<p>DEED REFERENCE: <u>31868/183</u></p>	
		<p>PLAN REFERENCE: <u>7878/219</u></p>	
		<p>WE CERTIFY THAT THE BUILDING(S) ARE NOT WITHIN THE SPECIAL FLOOD HAZARD AREA. SEE FORM:</p>	
		<p><u>25017C0362E</u> DTD: <u>06/04/2010</u></p>	
		<p>FLOOD HAZARD ZONE HAS BEEN DETERMINED BY SCALE AND IS NOT NECESSARILY ACCURATE. UNTIL DEFINITIVE PLANS ARE ISSUED BY NLD AND/OR A VERICAL CONTROL SURVEY IS PERFORMED, PRECISE ELEVATIONS CANNOT BE DETERMINED.</p>	
			
<p>REQUESTED BY: CHRISTINE MORGAN DRAWN BY: JPT CHECKED BY: ALB FILE: 14MP088</p>	