

**Maynard Zoning Board of Appeals – Meeting and Public Hearing  
October 26, 2020 – 7:00 p.m.  
(Held remotely via Zoom due to COVID-19)**

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**Board Members Present:** Paul Scheiner – *Chair*; Marilyn Messenger; Leslie Bryant; Jerry Culbert; John Courville; Page Czepiga

**Others Present:** Bill Nemser – *Town Planner*; Kaitlin Young – *Assistant Town Planner*; Steven Macfarlane – *Maynard resident and special permit petitioner*; Siobain Mitchell – *Assabet Village Co-op Market*; Bruce Ringwall – *Goldsmith, Prest, & Ringwall, Inc.*

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**Called to Order** at 7:00 p.m. by Paul Scheiner

**Approval of Minutes – 05.11.20 and 08.24.20**

*Marilyn Messenger made a motion to approve the Minutes dated 05.11.20 as written, which was seconded by Jerry Culbert.*

***The Board voted unanimously in favor of the motion.***

*Leslie Bryant made a motion to approve the Minutes of the 08.24.20 meeting of the ZBA, which was seconded by Jerry Culbert.*

***The Board voted unanimously in favor of the motion.***

**Public Hearing – 100 Great Road Special Permit Request**

Paul Scheiner opened the Public Hearing for the subject property. The petitioner, Steven Macfarlane, explained that he is requesting a special permit to allow for the addition of an 8'x10' mud room with an attached small deck at the back of the house.

The Board reviewed the Staff Report dated October 26, 2020, which detailed the special permit request, the required findings based on the Zoning By-laws, and the required actions of the ZBA for approval of the special permit. In reviewing the proposed plan, the petitioner pointed out that the property is currently non-conforming to the Zoning By-laws as the residence is 8.6' from the side property line. However, the proposed addition would not make the property more non-conforming since it would also have an 8.6' setback from the side property line.

Paul Scheiner asked if anyone on the call wanted to speak in favor of or opposition to the special permit request.

Michelle and Joe Howes of 3 Espie Avenue are the neighbors who live directly behind the petitioner's residence. They expressed full support of the special permit.

Peter and Brenda Luciano of 102 Great Road were present on the call but unable to use their audio. Per Kaitlin Young, they expressed their support of the special permit via the chat function of the Zoom video conference.

There were no further comments.

*Marilyn Messenger made a motion to close the Public Hearing, which was seconded by John Courville.*

***The Board voted unanimously in favor of the motion.***

The Board deliberated and agreed that there were no issues or concerns related to the required determinations.

*Leslie Bryant made a motion to grant the special permit to extend the legally non-conforming structure, and allow the construction of a single-story addition and deck at 100 Great Road in Maynard. The addition will maintain existing non-conformity of the side yard setback but not increase any other non-conformity. The proposed addition and deck will not be substantially more detrimental than the existing non-conforming structure to the neighborhood. The adverse effects do not outweigh its beneficial impact on the community, including social, economic, or community needs; traffic flow; adequacy of utilities or other public services; neighborhood character; natural environment; or fiscal impact on the Town. It is consistent with the special permit criteria as listed in Section 2. The motion was seconded by Marilyn Messenger.*

***The Board voted unanimously in favor of the motion.***

## **Public Hearing – 2-6 Powder Mill Road: Assabet Co-op Special Permit Request**

Paul Scheiner opened the Public Hearing for the subject property. Leslie Bryant requested recusal from voting on the hearing due to her role as an investor in the Co-op.

Bruce Ringwall, of the engineering firm GPR, Inc, was on the call representing the Assabet Village Co-op Market's petition for a special permit. He presented the drawing of the building permit plan for the proposed new building in addition to the proposed site plan drawing. The applicant has conducted a preliminary traffic study with additional studies to be conducted.

Paul Scheiner asked how delivery trucks would be able to access the building to make deliveries. Bruce Ringwall stated that deliveries would be made outside of the core business hours and that the details of truck access will be part of the traffic study and site plan review. Paul Scheiner also asked how the proposed dumpster location would be accessed without trespassing. Bruce Ringwall noted that there is currently a right of way which the applicant proposing using for the purpose of accessing the dumpster.

Bruce Ringwall stated that the applicant will be asking for variance approval from the Planning Board on several items of the plan, including setback and parking aisle width.

Jerry Culbert expressed concerns about potential issues that might be uncovered from further traffic study. Kaitlin Young explained that the ZBA's determination is related to the setbacks and that it is the Planning Board that will review the site plan for approval.

Bill Nemser clarified that the ZBA's role with regard to the subject property is to consider the reconstruction of a legal non-conformity. There was some discussion among the Board members as to which Board – the Planning Board or the ZBA -- should determine an approval subject to the other Board's approval.

Leslie Bryant asked if the fire department has provided any feedback to the applicant. Kaitlin Young stated that the fire department has received a copy of the plans but has not provided comments as of yet. Bruce Ringwall noted that the proposed site plan makes emergency services more accessible than the existing structure and layout.

Leslie Bryant asked if there are plans to create flood protection for the property. The property does sit within the flood plain, so the plans will go before the Conservation Commission as well. The plan will include the required storage associated with the flood plain.

Paul Scheiner asked for public comment.

Thomas and Lynn Herbst of 8-10 Powder Mill Road are abutters of the subject property. Thomas Herbst stated that they are opposed to the proposed plan, particularly with regard to the retaining wall and fence. The proposal includes a 7' retaining wall with a 6' fence on top of it, which would sit along the property line adjacent to the Herbst's property. The Herbsts are members of the Co-op. Lynn Herbst noted that, although she is happy that the existing structure will be torn down, she expressed concern about the lack of privacy with the proposed buffer.

Kaitlin Young reiterated that the ZBA is simply determining whether they would grant approval for the proposed dimensional setbacks.

Paul Scheiner noted that a 7' retaining wall should be considered a structure and, as such, would require the same setbacks as dictated by the Zoning By-laws.

Andrew Coull, the majority owner of the property at 20 Powder Mill Road, which is on the other side of the Herbst's property. Andrew Coull has been reviewing the project since its inception and is in support of it.

Rob Olney of the Co-op's Board clarified that the Co-op is looking for approval of the deviations so that they know where they are able to locate the structure on the property prior to investing in the additional engineering that's required before going in front of the Planning Board.

Thomas Herbst requested that the ZBA conduct a site visit to become more familiar with the site as it relates to the proposed plan.

The Board discussed whether or not a decision could be made at this time. They agreed that because the plan includes reconstruction of the parking lot with a retaining wall, the ZBA needs more information and plan details and is unable to make a determination. Paul Scheiner recommended that Bill Nemser ask town counsel to clarify whether a retaining wall is considered a structure or not. The Board agreed that the hearing should be continued.

*Marilyn Messenger made a motion to continue the Public Hearing for 2-6 Powder Mill Road: Assabet Co-op Market to November 23, 2020. The motion was seconded by Jerry Culbert.*

***The Board voted unanimously in favor of the motion.***

*Marilyn Messenger made a motion to adjourn, which was seconded by Paul Scheiner.*

***The Board voted unanimously in favor of the motion.***

**Adjourned** at 8:11 p.m.