



**TOWN OF MAYNARD
Zoning Board of Appeals
Office of Municipal Services**

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Findings and Decision

Petition No:	ZBA 22-09
Application Date:	July 18, 2022
Project Name:	21 Lincoln Street
Project Location:	21 Lincoln Street
Map & Lot #	Map 9, Lot 143
Type:	Variance
Property Owner/Applicant:	Charlotte Murray 21 Lincoln Street Maynard, MA 01754
Current Zoning:	Single-family 1 (S-1)
Parcel Size:	5,619 ft. ² + ¹

I. Description of Request

The application is for a Variance to allow a home addition that will create a new non-conformity exacerbate an existing non-conformity and extend an existing non-conformity. The requested relief will:

- a) Allow encroachment into the rear setback (30' minimum required, 20.6' +- proposed) which will create a new non-conformity.
- b) Allow an increase in building coverage (15% maximum required, 28.75% +- proposed) which will exacerbate an existing non-conformity (the current building coverage on site is 22.4%).
- c) Extend the non-conformity of the north side setback. A 15' minimum setback is required and a 4.5' setback currently exists. The requested addition will extend, but not exacerbate, the existing non-conformity.

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II. Procedural History

- a. Pursuant to Massachusetts General Law Chapter 40A, Section 10, an Application for a Variance was submitted by the above-referenced owner and filed with the Zoning Board of Appeals (ZBA) on July 18, 2022.
- b. Notice of the public hearing was published in the Metro-west Daily News on September 6 and September 14, 2022, and sent to parties in interest, as required by statute, by certified mail, return receipt requested, according to the Assessors' Certified Abutters List.
- c. A virtual public hearing on the Special Permit Application was originally scheduled to be opened on August 22, 2022, but because a delay in publishing the newspaper notice the meeting was continued to the meeting of September 26, 2022, where it was opened and closed.
- d. The application documentation and other submitted material were reviewed by Town Staff. There were no staff objections to the application.
- e. During the hearings of September 26, 2022. Richard and Denise Shea of 44 Brooks Street spoke in support of the application. No one spoke in opposition.

III. The criterion to grant a Variance is defined by MGL Ch. 40A Sec 10. To grant a Variance the Board must determine each of the following conditions exist:

- a. 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.
- b. 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 (note: a hardship is not of a personal nature but is connected to the subject property).
- c. 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

The ZBA made the following findings of fact during the Public Hearing:

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- a. The applicant has experienced water intrusion into the basement repeatedly. This has prevented utilization of the basement for additional living space.
- b. The applicant's 5,619 square foot lot is undersized for the S1 zoning district (which requires a 10,000 square foot minimum).
- c. The adjacent property (north side) setbacks on are non-conforming for the S-1 zoning district (approximately 4.6'+-).

The ZBA deliberated, considered, and finds:

- a. The following unique circumstances relating to the subject property exist:
 - The soil condition is negatively affected by water intrusion limiting the utilization of the basement as living space.
 - The property shape is significantly undersized for the S-1 district.
- b. A hardship exists in that literal enforcement of dimensional restrictions of the Zoning By-laws will limit the owner's ability to make improvements to the subject property that are typical of other homes in the area.
- c. Desirable relief may be granted without substantially derogating from the purpose of the Zoning By-laws: the project contributes to the overall improvement of the neighborhood by enhancing a home that potentially could have a lower property value than neighborhood properties due to the lot size.

V. Vote of the Board and Decision

A motion made by Board Member Page Czepiga and seconded by Board Member Leslie Bryant, to approve the Variance request for 21 Lincoln Street as contained in the application date-stamped July 18, 2022, by the Maynard Town Clerk and contained in this Decision as Exhibit "A". The Board voted as follows ("Y" to approve):

Paul Scheiner (Chair)	Y
Leslie Bryant	Y
Jerry Culbert	Y
John Courville	Y
Page Czepiga	Y

General Conditions

Recording of Decision and Approved Plans:

The Applicant shall file this decision with the Middlesex South District Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be provided to the Building Department.

Appeals

Appeals shall be made within twenty (20) days after the date of filing this decision in the Office of the Town Clerk directly to a court of competent jurisdiction in accordance with the provisions of M.G.L., Chapter 40A, Section 17.

Paul Scheiner, Chair
For the Zoning Board of Appeals

NOT VALID UNTIL CERTIFIED BY THE TOWN CLERK OF MAYNARD

Exhibit A
21 Lincoln Street Application