



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

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

[OMS@TownofMaynard.net](mailto:OMS@TownofMaynard.net) [www.townofmaynard-ma.gov](http://www.townofmaynard-ma.gov)

NOV 29 2022

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**Findings and Decision**

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Application Date: September 22, 2022

Project Name: 5 Paul Road

Petition No: ZB 22-11

Type: Variance Request

Property Owner/Applicant: Susan Hopper  
5 Paul Road  
Maynard, MA 01754

Type of Request: Variance

Project Location: 5 Paul Road

Map, Lot: Map # 4, Lot #155

Current Zoning: Single Residence District 1 (S-1)

Lot Size: 10,000 ft.<sup>2</sup> +/-

**I. Description of Request**

The application is for a Variance that will create a new non-conformity. The requested relief will allow construction of a deck that will encroach into the required 30-foot rear setback by approximately 10.6 feet.

**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 September 22, 2022.

- b. Notice of the public hearing was published in the Metro-west Daily News on October 10 and October 17, 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 October 27, 2022, but because a delay in publishing the newspaper notice the meeting was continued to the meeting of November 14, 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 November 14, 2022. Jane Healy of 3 Paul Road requested clarification of the request including construction length and noise generation as well as parking of construction vehicles.

**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:

- a. The applicant has a Town-created public access trail directly abutting the SW side of the subject property. This has prevented the applicant from enjoying a level of privacy when using the existing deck, that is typically afforded to other similar dwellings in the neighborhood that do not abut a public trail.

- b. The property abutting the rear yard of the subject property contains wetlands.
- c. Because the abutting property in the rear of the subject property is considered "unbuildable" by the Town and has a generally lower topography than the trail access, locating a deck in the rear yard setback will provide greater privacy for the applicant than a side yard deck.

The ZBA deliberated, considered, and finds the following unique circumstances relating to the subject property exist:

- a. The subject property abuts wetlands in the rear of the property perimeter. Because of existing topography, the siting of the trail entrance in a location adjacent to the subject property is desirable and serves the public interest. This condition is entirely unique to the subject property and is not common to other neighborhood properties.
- b. A hardship exists for the applicant due to loss of privacy in SW side yard abutting the trail. 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. Denying the request would create a financial hardship by preventing the applicant from adding a deck -with a level of privacy similar dwellings in the neighborhood, that do not abut a public trail- enjoy.
- c. Desirable relief may be granted without substantially derogating from the purpose of the Zoning By-laws as the intent of the Zoning By-laws for separation between dwellings is maintained because of the unbuildable adjacent property. Additionally, there is a public benefit created by having the trail for public access.

## V. Vote of the Board and Decision

A motion made by Board Member Leslie Bryant and seconded by Board Member Jerry Culbert, to approve the Variance request for 5 Paul Road allowing construction of a deck that will encroach into the required 30-foot rear setback by approximately 10.5 feet and as contained in the application date-stamped September 20, 2022, (Exhibit "A"). The Board voted as follows ("Y" to approve) subject to the Conditions of Approval as contained below:

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

**Conditions of Approval**

Any construction vehicles associated with construction of the improvements allowed by this Variance, shall park exclusively on the owner's property.

**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.

**Electronic Signatures**

The signature(s) hereunder are made in accordance with M.G.L. c.110G and pursuant to the board's electronic signature authorization vote recorded on November 8, 2022 in Book 80925 and Page 60 at the Middlesex South District Registry of Deeds.



Paul Scheiner, Chair  
For the Zoning Board of Appeals

11/28/2022  
Date

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

**Exhibit A**  
**5 Paul Road Application**

**Application Fees (Not Including Advertising and Mailing Costs):**

- Special Permit: \$250
- Variance: \$250
- Appeal of Building Commissioners Decision: \$250
- Special Permit Renewal: \$150

Clerk Stamp:

**RECEIVED**

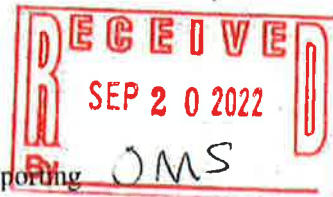
**By Town Clerk at 2:35 pm, Sep 22, 2022**



**ZONING BOARD OF APPEALS**

**APPLICATION NUMBER:** \_\_\_\_\_

**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 5 Paul Road

Characteristics of Property: Lot Area 10,010 Present Use 230

Assessor's Map # 4 Parcel # 155 Zoning District R1

Name of Petitioner Susan Hopper Phone # 617 642-1389

Mailing Address 5 Paul Rd Maynard, MA 01754

E-mail Address sue.britas@gmail.com

Name of Owner Same Phone # \_\_\_\_\_

(If not Petitioner)

Mailing Address \_\_\_\_\_

Petition is for

(Check One)

- ☐ An Appeal from the Decision of the Building Commissioner  
☒ A Variance  
☐ A Special Permit  
☐ Other (Please Specify) \_\_\_\_\_

Applicable Section of the Zoning By-Laws: 4-1

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

See attached

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

Signature of Petitioner (or representative) [Signature]

Address (if not Petitioner) 5 Paul Rd Maynard, MA 01754

Telephone Number 617 642 1389

Signature of Owner, if other than Petitioner \_\_\_\_\_

A variance is sought from Section 4-1 of the Zoning By-Laws from the rear setback requirement of 30 feet to 19.4 feet. The request for the variance is so that the proposed deck/shed off the rear of 5 Paul Road will allow for deck privacy, which the property currently does not have, due to the existing public access to the Conservation trails directly behind Paul Road on the side of the current deck. The land behind 5 Paul Road is undevelopable and encroaching on the rear setback will not degradation from the intent of the zoning bylaw (intended to ensure separation minimum between homes). There are 8 homes on Paul Road that abut the Conservation Land, 3 of which have rear private decks. This puts my home at a disadvantage because there is the existing public access on the side of my current deck preventing the degree of privacy enjoyed by other properties in my immediate area. By granting this variance, it allows 5 Paul Road to have an equal footing with its neighbors. Attached are photos of 5 Paul Road's backyard.

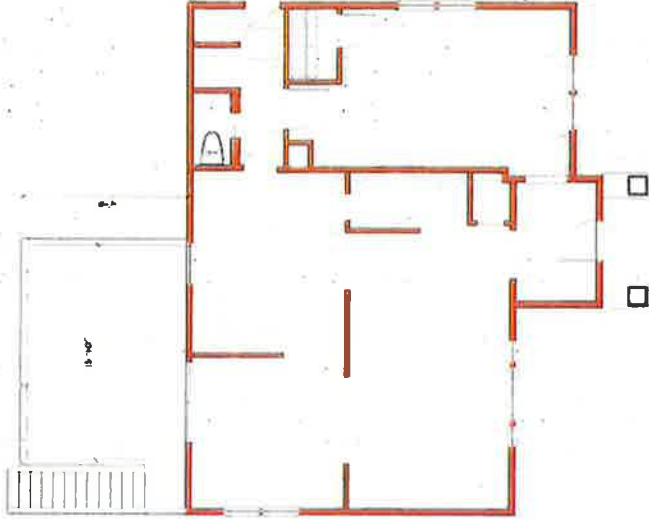
Susan Hopper  
Architect  
Hopper Architects

GENERAL CONTRACTOR

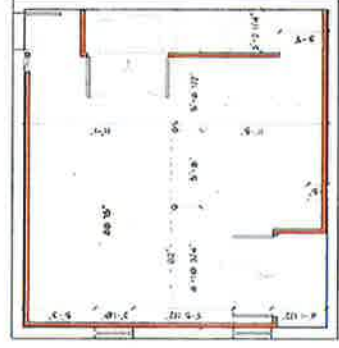
HUPPER  
RENOVATION

SCALE: AS SHOWN  
SHEET NO. 1411  
PROJECT NO. 1411  
DATE: 06/10/16  
1411

Alee



PROPOSED FIRST FLOOR PLAN  
SCALE: 1/4" = 1'-0"



PROPOSED BASEMENT PLAN  
SCALE: 1/4" = 1'-0"



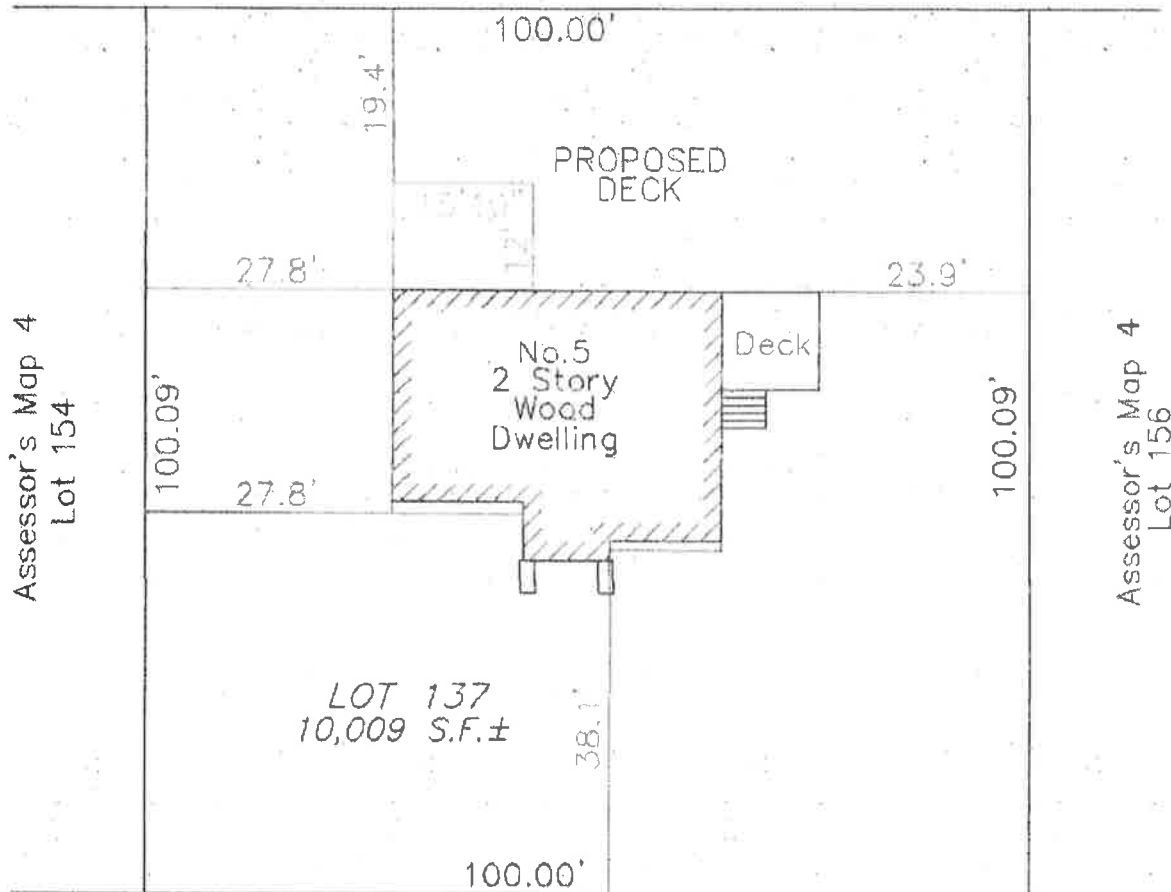
PROPOSED ELEVATION  
SCALE: 1/4" = 1'-0"

PROPOSED 1ST FLOOR  
-1ST SECTION





Assessor's Map 4  
Lot 182



PAUL ROAD



## PLOT PLAN OF LAND MAYNARD, MA.

PREPARED FOR:

**SUSAN HOPPER**  
**5 PAUL ROAD**

SCALE: 1"=20' DATE: JANUARY 20, 2022

**DAVID P. TERENZONI, P.L.S.**  
**4 ALLEN ROAD, PEABODY, MA. 01960**

Zoning District: R1  
Deed Reference: Book 72898; Page 145  
Assessor's Map 4, Lot 155  
Existing Lot Coverage = 13.5% ±

P22-004