



**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)



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**Findings and Decision**

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**Project Name:** 18 Dettling Road, Maynard, MA 01754  
**Petition No:** ZBA 24-01  
**Petition Type:** Variance Request  
**Property Owner/Applicant:** Stephanie Oliva & Daniel Pope  
18 Dettling Road  
Maynard, MA 01754  
**Description of Request:** Variance  
**Project Location:** 18 Dettling Road  
**Map & Lot #** Map 29, Lot # 44  
**Current Zoning:** Single Residence District 1 (S1)  
**Lot Size:** 19,702 SF (0.4523 Acres)  
**Date Application Received:** January 3, 2024

**I. Description of Request**

The Petitioner requested a Variance to reconstruct a non-conforming deck. The subject property, a single-family dwelling in the S-1 zoning district, is a pre-existing nonconforming structure. At the time the applicants purchased the property in 2022, there was a rear deck encroaching 12 feet into the required minimum 30-foot rear setback. No building permit for the original deck was on record in Town Hall. The deck has deteriorated, and the applicants have contracted to have it reconstructed. The contractor demolished the deck with the intent to reconstruct it on the existing footings, however did not obtain a Building Permit. The Building Commissioner determined because the deck was removed, a Variance was required to obtain the requested relief from rear setback requirements.

**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 January 3, 2024.
- b. Notice of the public hearing was published in the Metro-west Daily News on February 12 and February 19, 2024, and sent to parties in interest, as required by statute, by certified mail, return receipt requested, according to the Assessors' Certified Abutters List.

<sup>1</sup>  
ZBA Decision: February 26, 2024  
Project Name: 18 Dettling Road  
Project Number: ZBA 24-01

- c. A virtual public hearing was opened and closed on February 26, 2024.
- d. The application documentation and other submitted material were reviewed by Town Staff. There were no staff objections to the application.
- e. During the hearing Peter Winnett (16 Dettling Road) 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 and Determinations**

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

- a. The subject property consists of an irregular (triangular) lot size and allowed for limited placement of the house on the lot.
- b. The residents purchased the subject property with a deck. Removing the deck or rebuilding it to a smaller size would create a financial hardship as it is a value subtracted from the subject property. Other homes in the immediate neighborhood have similar decks.
- c. Desirable relief may be granted without substantially derogating from the purpose of the Zoning By-laws as the property abuts a nature preserve with no homes. The encroachment preserves separation from other homes.

**V. Vote of the Board and Decision**

A motion made by Board Member Leslie Bryant and seconded by Board Member John Courville, to approve the Variance request to allow re-construction of a deck in the same position as the previous deck (detailed in Exhibit "A" of this Decision).

The Board voted as follows to approve the application subject to the following condition:

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

#### ***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



Date

**EXHIBIT "A"**  
**PLAN OF LAND**  
**IN**  
**MAYNARD,** **MASS.**

SCALE: 1" = 40'

HAYES ENGINEERING, INC.  
 CIVIL ENGINEERS &  
 LAND SURVEYORS



DEC. 31, 1992

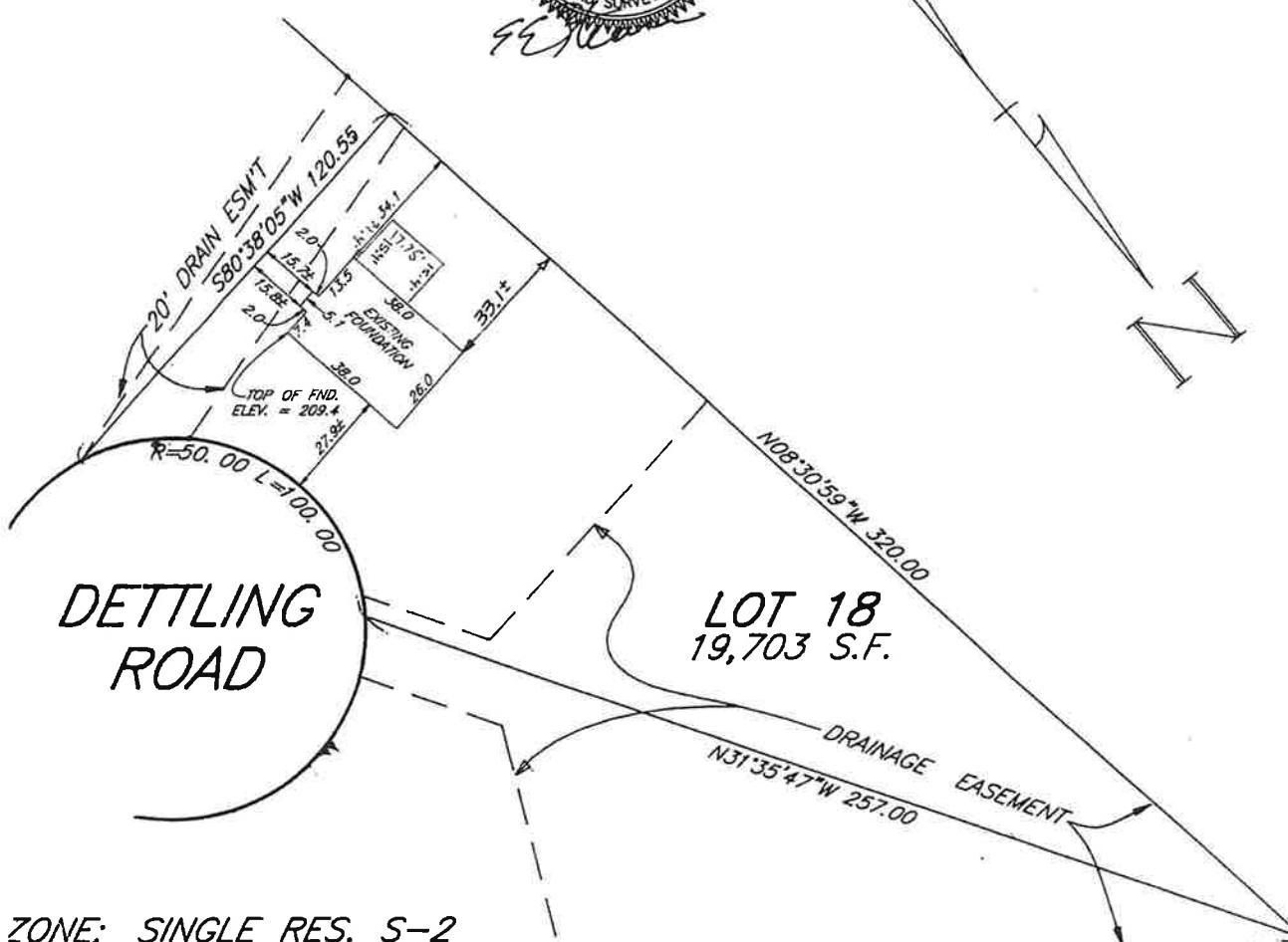
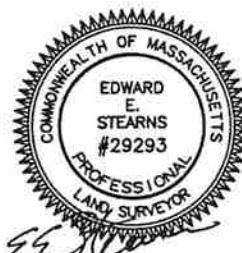
603 SALEM STREET  
 WAKEFIELD, MASS. 01880  
 TEL. (617) 246-2800

I CERTIFY THAT THIS FOUNDATION IS LOCATED ON THE GROUND AS SHOWN, AND THAT IT CONFORMS TO THE ZONING BY-LAWS OF THE TOWN OF MAYNARD. I FURTHER CERTIFY THAT THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARD AREA (ZONE A OR V) AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 250204 0005 B. EFFECTIVE DATE: JUNE 15, 1979

DATE:

Dec. 31 1992

*Edward E. Stearn*  
 PROFESSIONAL LAND SURVEYOR



ZONE: SINGLE RES. S-2

MINIMUM SETBACKS:

FRONT = 25'  
 SIDE = 15'  
 REAR = 30'

**EXHIBIT "A"**