



Zoning Board of Appeals

Town Office Building
195 Main Street
Maynard, MA 01754

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OCT 10 2017

TOWN CLERK'S OFFICE
MAYNARD, MA 01754

FINDINGS AND DECISION

Petition of Rex & Krista Olsen for Variance to provide relief from the Zoning By-laws to allow a roof and screening to an existing uncovered deck.

Property Location: 55 Brooks Street, Maynard, Ma.
Date of Decision: September 25, 2017
Petition Number: ZB 17-06

Procedural History

1. Pursuant to Massachusetts General Law Chapter 40A, Section 10, an application for a Variance from the Zoning By-laws (ZBL) was submitted by the above-referenced owner and filed with the Zoning Board of Appeals (ZBA) on July 24, 2017. The request was for a Variance from Section 4.0 of the ZBL to allow the applicant to exceed the maximum lot coverage of 15% by approximately 1%.
2. A ZBA public hearing on the Variance application was held on September 25, 2017.
3. The Variance application was accompanied by a plan (survey) entitled "Proposed Plot Plan" prepared by Hancock Survey Associates, Inc., and dated April 25, 2006 (Exhibit "A").
4. The application, documentation and other submitted was reviewed by the ZBA, Building Commissioner, Town Planner and Conservation Administrator. 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 at a public hearing.

Findings

a. General

1. The subject property is located at 55 Brook Street Maynard, MA 01754, Maynard. The owners reside on the property. The property consists of

approximately 16,640 ft² square feet and is zoned "Single Residence District 1" (SR1).

2. A minimum lot size of 10,000 square feet is required within the SR1 District.
3. The applicant was requesting a Variance to allow installation of a roof and screening to an existing uncovered deck. A Variance was required as the plan proposed an increase of building coverage to approximately 16% (maximum coverage 15% within the S-1 zoning district).
4. No one spoke in opposition to the request at the public hearing. Abutters were present and all spoke in support.

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 findings contained above, on its own merit.

1. The Board determined that unusual circumstances affecting the land or structures exist: the subject property is subject to excessive water retention exacerbated by both to its direct proximity to wetlands and the presence of a drainage easement. **Condition met.**
2. The Board determined that a hardship exists: because of the frequency standing water is present in and adjacent to the subject property, an abundance of mosquitos frequently restrict use of the unscreened deck and create a hardship. **Condition 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 derogate the intent and purpose of the ZBL as most of the surrounding properties have screened patios/decks. Abutters from the neighborhood all spoke in favor of the Variance. **Condition met.**

Decision


In view of the foregoing and by a 4-0 vote, The ZBA has determined the conditions as required by Chapter 40A, Section 10 of the Massachusetts General Law have been met and the Applicant's request for a Variance is **approved**.

Record of Vote

Marilyn Messenger	<u>Y</u>
John Courville	<u>Y</u>
Jamal De Vita	<u>Y</u>
Molly Bergin	<u>Y</u>



Paul Scheiner, Chair
For the Zoning Board of Appeals



Date

Filed with the Town Clerk on: **RECEIVED** _____

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Exhibit "A"

