

TOWN OF STOCKBRIDGE, MASSACHUSETTS

ZONING BOARD OF APPEALS

September 8, 2020 and September 15, 2020

Findings: On September 8 and September 15, the Zoning Board heard an Application filed by Thomas and Susan Sharpe requesting a Variance to the zoning bylaw requirements with respect to the extension or alteration of a non-existing structure (i.e., a deck) on property located at 1 West Dale Road. The Petitioner's Application for a building permit to extend an existing deck an additional 24 feet was denied. Section 5.5 of the zoning bylaws requires a minimum of 35-foot setback from the side and rear property line. A timely Appeal under Section 7.2.1 of the zoning bylaws was filed. After hearing, the ZBA, which consisted of Thomas Schuler, John Hyson, Miles Moffatt, Starbuck Smith, and James Murray, found 5-0 to grant a Variance under Section 7.22 of the zoning bylaws. The Board found statutory requirements set forth in MGL Chapter 40A Section 10 were satisfied. The Board found that the Applicant demonstrated that the circumstances relating to the shape and topography of the lot (i.e., that the house was a pre-existing non-conforming structure), and that the Applicant's request to extend the deck would not greatly affect the zoning district in which it was located. The lot which abuts the Applicant's lot is not buildable. In addition, the Applicant has attempted to address this setback issue by offering to purchase the abutting non-buildable lot.

The Board determined that a literal enforcement of the provisions of bylaw 5.5 would involve a substantial hardship to the Petitioner. The Board noted that Petitioner was attempting to comply with the bylaw regulations by offering to purchase the abutting property. However, due to circumstances beyond the control (i.e., the unfortunate change in the medical condition of the abutting property owner), has delayed a potential transfer of this property. The Board also notes that the Petitioner's home is also an existing non-conformity and that the proposed extension of the existing deck was arguably only increasing the extent of this non-conformity. Finally, the Applicant demonstrated that such a Variance would not deviate from the intent or purpose of bylaw 5.5. The proposed deck is abutting an uninhabitable lot and is not visible from the street. There would be no increase in traffic, parking, or impairment of light or air to the adjacent properties and in no way would diminish the neighborhood property values or impair the public health, safety, comfort, morals, or general welfare of the inhabitants of Stockbridge.

The variance was granted.

There were five (5) votes to grant the variance.

Thomas Schuler, James Murray, John Hyson, Buck Smith, Miles Moffatt

September 8, 2020 and September 15, 2020

Findings: On September 8 and September 15, the ZBA heard an Application filed by TERESA and R.J. Wise and James W. Clary requesting a Variance from the zoning bylaw requirements with respect to placement of a lawn house on property located at 6 Cherry Hill Road. The Petitioners applied for a building permit to place a lawn house on the property 25 feet from the side property line WAS denied. Section 5.5 of the zoning bylaws requires a MAXIMUM 35 feet setback from the side and rear property line. The bylaws also impose a maximum lot requirement of 10%. Presently coverage on this nonconforming lot is 12.7%. The Petitioner seeks to place a lawn house, which would add an additional 96 square feet to the lot coverage on this .49 acre parcel. The Petitioners' Application for a building permit was denied and a timely Appeal under Section 7.2.1 of the zoning bylaws was filed.

At the hearing, the ZBA, which consisted of Thomas Schuler, John HYSON, James Murray, STARBUCK Smith, and Miles Moffatt, voted 5-0 to grant a Variance under Section 7.2.2 of the zoning bylaws.

The Board found the statutory requirements set forth in MGL Chapter 40A Section 10 were satisfied. The applicant demonstrated that the circumstances relating to the lot shape and topography of the lot would not greatly affect the

zoning district in which it was located. This is .49 acre non-conforming lot building coverage which consisted of a house and barn ALREADY exceeded the 10% maximum lot coverage requirement. These structures have been in place since the 1860s, which predate the zoning bylaws. Replacement of the lawn house as proposed would not be visible from the street. In addition, the placement of the lawn house elsewhere on the site would create drainage issues due to the topography of the land.

The Boarder advised that the Plaintiff, who is an artist and who desires to utilize the lawn house as an art studio, has demonstrated hardship. Adding the studio space for the Petitioner the existing VINTAGE BARN is cost-prohibitive. Plaintiff has space in Stockbridge, and adjacent towns for the past 20 years, has proved to be problematic as Plaintiff has often been evicted due to a sale or transfer of property or change in use of the structure. Finally, the Plaintiff has demonstrated that this relief may be granted without substantial detriment to the public good. The abutting neighbors have given enthusiastic approval to the project.

The proposed use would be only as an art studio. There would be no increase in traffic, parking, or impairment of light or air to adjacent properties. Moreover, it would in no way diminish neighborhood property values or impair the public health, safety, comfort, morals, or general welfare of the inhabitants of Stockbridge or the neighbors. On September 8 and September 15, the ZBA heard an Application filed by TERESA and R.J. Wise and James W. Clary requesting a Variance from the zoning bylaw requirements with respect to placement of a lawn house on property located at 6 Cherry Hill Road. The Petitioners applied for a building permit to place a lawn house on the property 25 feet from the side property line WAS denied. Section 5.5 of the zoning bylaws requires a MAXIMUM 35 feet setback from the side and rear property line. The bylaws also impose a maximum lot requirement of 10%. Presently coverage on this nonconforming lot is 12.7%. The Petitioner seeks to place a lawn house, which would add an additional 96 square feet to the lot coverage on this .49 acre parcel.

The Petitioners' Application for a building permit was denied and a timely Appeal under Section 7.2.1 of the zoning bylaws was filed.

At the hearing, the ZBA, which consisted of Thomas Schuler, John Hyson, James Murray, Starbuck Smith, and Miles Moffatt, voted 5-0 to grant a Variance under Section 7.2.2 of the zoning bylaws

VOTED

The variance was granted.

There were five (5) votes to grant the variance.

Thomas Schuler, James Murray, John Hyson, Buck Smith, Miles Moffatt