

# **TOWN OF STOCKBRIDGE, MASSACHUSETTS**

## **ZONING BOARD OF APPEALS**

**APPLICANT** Peanut Gallery LLC (The)

**PREMISES AFFECTED:** 8 Hawthorne Road, Stockbridge, MA.

**REFERRING** The applicant is requesting a variance pursuant to the Stockbridge Zoning Bylaws, Section 7.2.2 requesting a Variance with respect to a structure with regard to property at 8 Hawthorne Road.

**DATE OF DECISION** August 9, 2022

On August 2 and August 9, 2022, the Zoning Board of Appeals heard an Application held by the Peanut Gallery, LLC, requesting a variance from the zoning bylaw requirements with respect to dimensional and height variances under Section 7.2.2 to permit the construction of a single-family home and septic system at 8 Hawthorne Road, Stockbridge, Massachusetts.

Findings: The property is in zoning district R-4, which requires minimum 4-acre lot size, 300-foot frontage, and 50-foot setbacks. This property is non-conforming with 0.9 acre and 100 feet of frontage. The existing structure on the property is non-conforming with a house set back 43.4 feet from the west side and deck set back 32.6 feet from the west side. The Applicant is requesting a Variance for a 33.6 east side setback, a Variance to construct a retaining wall 10 feet from the property line, and a Variance from zoning bylaw 6.18 to construct a retaining wall at a height of 8 feet at its highest point.

After hearing on August 2 and continued to August 9, the ZBA by a vote of 4-1 found that the Applicant, Peanut Gallery, LLC, has satisfied the standard for granting dimensional and height variances to permit the construction of a new house with a 33.6-foot east side setback and a retaining wall 10 feet from the property line, which measures 8 feet at its highest point.

Members Murray, Mills, Andrew and Hyson found that the retaining wall was necessary for the new septic system given the property's unique soil conditions, shape, and topography. Members Murray, Mills, Andrew and Hyson also found that there was no viable alternative location for the septic system on the property and that the Applicant had satisfied a requirement of substantial hardship. Members Murray, Mills, Andrew and Hyson noted that this proposed deviation from the zoning requirements would not be harmful to the public good and would have no effect on the zoning district. Schuler was the lone dissenter, finding that the granting of this dimensional and height variance would detract from and undercut the purposes and intent of the zoning bylaws.

**VOTED:** The Variance was granted. There were four votes to grant the Variance: James Murray, John Hyson, Mark Mills, and Patricia Andrew, and one vote not to grant the Variance, Thomas Schuler.