

TOWN OF STOCKBRIDGE, MASSACHUSETTS

ZONING BOARD OF APPEALS

May 4, 2021 and May 10, 2021

On May 4 and May 10, 2021, the Zoning Board of Appeals heard an application filed by John M. Henderson requesting variance from the Zoning Bylaw requirements with respect to dimensional variances under Section 7.2.2, to permit the separate ownership of two residential properties which currently exist at 39 Main Street.

Findings: After a hearing on May 4, 2020 and continued to May 10, 2021, the Stockbridge ZBA by a vote of 4 to 1, the ZBA found that the Applicant, John H. Henderson, has satisfied the standard for granting a dimensional variance to permit the separate ownership of two residential properties which currently exist at 39 Main Street, Stockbridge. Members Smith, Moffatt, Hyson, and Murray found that the property at 39 Main Street, which consisted of two non-conforming residential structures on a single lot, was a unique condition. These buildings are proximate to each other and this condition existed prior the enactment of the Town's zoning bylaws. It was noted that the zoning bylaws do not permit lots to have fully occupied residential structures on a single lot. The Applicant, John Henderson, stated that if the variance was granted, the two structures would be used for residential purposes as they had been for the past 50 years. ZBA member John Hyson noted there would be no impact on the neighborhood and no effect on the zoning district and no detriment to the public good. Members Moffatt, Hyson, Murray and Smith also noted that granting the variance would not result in an outcome that was inconsistent with the purpose of the zoning bylaws. After weighing extensive evidence and testimony from the Applicant about his efforts to sell the property as one parcel and to secure residential financing, members Hyson, Murray, Moffatt and Smith concluded that the Applicant had satisfied the requirement of substantial hardship. Member Hyson noted that since the Applicant was unable to secure financing as residential property, this created a substantial hardship. Members Murray, Moffatt, and Smith agreed with the finding. Schuler was the lone dissenter, finding that the applicant did not satisfy the hardship requirement. Schuler also did not believe that granting variance was consistent with the intent of zoning bylaws.

VOTED

The variance was granted.
There were four (4) votes to grant the variance,
James Murray, John Hyson, Buck Smith, Miles Moffatt
And one (1) vote to not grant the variance.
Thomas Schuler