

2021 AUG -3 P 4: 13

Town of Southborough
BOARD OF APPEALS
SOUTHBOROUGH, MASSACHUSETTS 01772

9 CORDAVILLE ROAD
SOUTHBOROUGH, MASSACHUSETTS 01772-1662
508-485-0717 ext. 1

James F. Hegarty
Town Clerk
Town House
17 Common Street
Southborough, Massachusetts 01772

August 3, 2021

Notice of Decision of an Appeal

Property Address: 35 Presidential Drive; Recorded Worcester Registry of Deeds Book 62447, Page 253

Appellants: Laura Scott, 37 Presidential Drive, Southborough, MA

Application Filed: April 30, 2021

Public Hearing: July 21, 2021 at 7:00 P.M.
Virtual meeting through Zoom

Sitting as a Board: David Williams, Chair
Deborah DeMuria
Paul Drepanos
Michael Robbins
Doris Cahill

For the Appellants: Laura Scott, Applicant
35 Presidential Drive
Southborough, MA 01772

Ginny Sinkel Kremer, Esq, Blatman, Bobrowski & Haverty, LLC
9 Damonmill Square, Suite 4A4
Concord, MA 01742

Procedural History:

1. An application for an appeal was filed in the Office of the Southborough Building Department on April 30, 2021.
2. The application for the appeal is to request an administrative review of the project at 35 Presidential Drive as approved through the issuance of building permit BP-21-92 for an addition of a sports barn with connector off the garage in the Residence A District.

3. A document was provided to the Board by Attorney Kremer, representing the appellate, asking for the revocation of building permit BP-21-92 describing requirements not met under §174-2 (B), definition of “accessory building or use” and stating the addition is prohibited under §174-8.C (2), “prohibited uses” to include a sports barn.
4. The record owner of the subject property is Ms. Jinyun Hian and Mr. Desheng Jiang, 35 Presidential Drive, Southborough, MA.
5. A public hearing before the Zoning Board of Appeals was duly noticed in the MetroWest Daily News on Wednesday July 7, 2021 and Wednesday July 14, 2021.
6. The applicants were heard at the July 22, 2021 Zoning Board of Appeals meeting after describing that the proposed addition is a fully independent building and use as described under the definition of “accessory buildings” in §174-2 (B) and is prohibited under §174-8.2 (C) “prohibited uses.” Additionally, Ms. Kremer stated the permit is illegal as it does not comply with 174-8 (C) (2) “principal permitted uses.”
7. The public hearing opened on July 22, 2021 and closed the same evening.

Plans/Documents:

1. Letter from Laura Scott to the Zoning Board of Appeals.
2. Revised Appeal Application from Laura Scott.
3. Certified Copy of Abutters List from the Town of Southborough, MA.
4. Building Permit PB-21-92 issued by the Town of Southborough Building Commissioner on April 2, 2021.
5. Email correspondence between Katie Barry, Principal Assistant to the Zoning Board of Appeals and Laura Scott.
6. Proposed site plan dated March 10, 2021, 35 Presidential Drive, Southborough, MA.
7. Proposed addition plan dated March 12, 2021, 35 Presidential Drive, Southborough, MA.
8. Proposed height calculation dated March 31, 2021, 35 Presidential Drive, Southborough, MA.
9. Schematic master plan dated December 15, 2020, 35 Presidential Drive, Southborough, MA.
10. Proposed site plan dated March 10, 2021, 35 Presidential Drive, Southborough, MA.
11. Jiang Addition proposal as prepared by Latitude Architects, LLC, stamped March 22, 2021.
12. Four current pictures of the property at 35 Presidential Drive, Southborough, MA.
13. Letter and exhibits to the Board from Ginny Sinkel Kremer, Esq. of Blatman, Bobrowski & Havery, LLC received July 21, 2021.

Findings:

1. The property is located in the Residence A Zoning District.

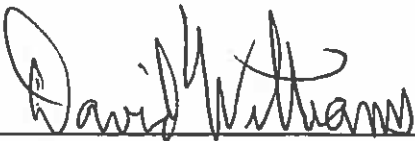
2. The applicant is proposing the appeal and revocation of building permit BP-21-92 at 35 Presidential Drive to construct an attached sports barn.
3. The proposal and evidence presented does not meet the criteria required to grant the appeal:
 - a. The Town of Southborough Zoning bylaw §174-2 (B) does not apply to the proposed sports barn at 35 Presidential Drive as the addition is connected to the primary residence and therefore is not considered an accessory building.
 - b. The Town of Southborough Zoning bylaw §174-8 (C) (2) does not apply to the proposed sports barn at 35 Presidential Drive as the addition is connected to the primary residence and therefore is not a multiple occupancy use or building and is considered residential.
 - c. The Town of Southborough Zoning bylaw §174-8.2 (C) does not apply to the proposed sports barn at 35 Presidential Drive as the addition is connected to the primary residence and therefore is a residential extension of the allowed one-family home.
 - d. An administrative error in issuing BP-21-92 was not identified.
 - e. The proposed use is customarily accessory and incidental to the use of the property for residential purposes. It is customary for residential homes to have exercise and recreational facilities incorporated therein. Facilities for "half-court" basketball facilities are not uncommon. That this facility is covered does not change the fact that the use is common in both nature and scope. Other similarly sized recreational facilities include swimming pools, tennis courts, winter hockey rinks and the like.
4. The Board was satisfied that the proposed addition meets the conditions and requirements set forth in the applicable Town of Southborough Zoning Code §174-8.2 (D) and is therefore a legal building permit.

Decision and Vote of the Board:

At its meeting on July 21, 2021 the Zoning Board of Appeals voted unanimously (5-0-0) to deny the appeal of BP-21-92 as it was legally granted pursuant to §174-8.2 (D) to allow Ms. Jinyun and Mr. Desheng a connected sports barn addition.

After review of all evidence and facts presented at this hearing, and after deliberation of the same, the Board voted unanimously (5-0-0) on a motion made by Mr. Drepanos and seconded by Ms. Cahill, with members voting by roll call as follows to deny the requested appeal:

David Williams	Aye
Deborah DeMuria	Aye
Paul Drepanos	Aye
Michael Robbins	Aye
Doris Cahill	Aye



David Williams, Chair

Signing on behalf of the Zoning Board of Appeals

**** NOT VALID FOR RECORDING UNTIL CERTIFIED BY THE TOWN CLERK OF SOUTHBOROUGH****

In accordance with Sec. 11 of Ch. 40A of Massachusetts General Law, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Southborough Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Attest: _____

Date: _____

James F. Hegarty, Town Clerk
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