

2020 SEP - 8 P 4:44 *Amz*

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

September 8, 2020

Notice of Decision of an Application for a Variance

Property Address: 3 Sunrise Drive; Recorded Worcester Registry of Deeds Book 47969, Page 313

Appellants: David and Meredith Fioretti, 3 Sunrise Drive, Southborough, MA

Application Filed: August 6, 2020

Public Hearing: August 26, 2020 at 8:00 P.M.
Virtual meeting through Zoom

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

For the Appellants: David and Meredith Fioretti, Applicants
3 Sunrise Drive
Southborough, MA 01772

Patrick Ellsworth, McCarthy Pools
221 Turnpike Road
Southborough, MA 01772

Procedural History:

1. An application for a Variance was filed in the Office of the Southborough Building Department on August 6, 2020.
2. The application for the Variance is to approve an existing pool installed within the 10-foot side setback in the Residence A District.
3. Relief was requested under Section 174-8.2 (D) 3.

4. The record owner of the subject property is Ms. Meredith Fioretti and Mr. David Fioretti, 3 Sunrise Drive, Southborough, MA.
5. A public hearing before the Zoning Board of Appeals was duly noticed in the Metro West Daily News on Wednesday August 12, 2020 and Wednesday August 19, 2020.
6. The applicants were heard at the August 26, 2020 Zoning Board of Appeals meeting after describing that the pool was constructed not according to the approved building permit and infringed upon the side setback of 10'0" for a swimming pool in the Residence A District.
7. Public hearing opened on August 26, 2020 and closed the same evening.

Plans/Documents:

1. Letter from Building Commissioner/Zoning Enforcement Officer Laurie Livoli to David and Meredith Fioretti
2. Certified Copy of Abutters List from the Town of Southborough, MA.
3. Certified Plot Plan for 3 Sunrise Drive, Southborough, MA dated July 7, 2019.
4. Letter or explanation from David Fioretti.
5. Set of six current photographs of the property depicting the location of the pool and property markers.

Findings:

1. The proposal constitutes a Variance under the Town of Southborough Zoning Bylaw.
2. The property is located in the Residence A Zoning District.
8. The applicant is proposing approval to allow the location of an existing pool installed within the 10-foot side setback in the Residence A District.
3. The proposal and evidence presented meets the criteria required to grant the relief:
 - a. Literal enforcement of this bylaw would result in a substantial hardship for the applicant due to the need to remove the existing pool and reinstall it to 2.7 – 4.7 feet to the west in order to meet the required setback.
 - b. The hardship is related to the configuration of the pool and the location of open space.
4. The Board was satisfied that the Applicant, if denied this request, would suffer a hardship in that the removal and reinstallation of the pool 2.7-4.7 feet would substantially derogate from the intent of this bylaw.
5. The Board decided that the granting of this relief would not substantially affect the public's good nor denigrate the spirit or purpose of the law. It was determined that the literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and 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.

Decision and Vote of the Board:

At its meeting on August 26, 2020, the Zoning Board of Appeals voted unanimously (5-0-0) to grant the Variance pursuant to Section 174.8.2 (D) (3) to allow Ms. Meredith Fioretti and Mr. David Fioretti a side yard setback of 5 feet, 3 inches and 7 feet, 3 inches as opposed to the allowed 10 feet from the side property line for the location of a pool with the following three conditions:

1. All materials from the pool, deck, and fence installation located beyond the property boundary will be removed from 1 Sunrise Drive.
2. Landscaping in the areas affected by the removed materials will be returned to the condition it was in prior to the pool, deck, and fence installation.
3. All drainage and water runoff conditions on 1 Sunrise Drive created by the pool, fence, and deck installation will be addressed.

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. Robbins and seconded by Mr. Drepanos, with members voting by roll call as follows to grant the requested Variance with the above conditions:

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|-----------------|-----|
| 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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