

**Town of Southborough**

**BOARD OF APPEALS**

SOUTHBOROUGH, MASSACHUSETTS 01772

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

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

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January 25, 2023

**Notice of Decision of an Application for a Variance**

**Property Address:** 35 Pine Hill Road, Southborough, MA 01772

**Map/Lot & Book/Page:** Map 79, Lot 15; Book 18041, Page 004

**Appellants:** Alfred Hamilton & Diana Wainrib

**Application Filed:** November 29, 2022

**Public Hearing:** January 18, 2023 at 7:00 P.M.  
Virtual meeting through Zoom

**Sitting as a Board:** David Williams, Chair  
Craig Nicholson  
Paul Drepanos  
Michael Robbins  
Doris Cahill

**For the Appellants:** Alfred Hamilton  
Diana Wainrib

**Procedural History:**

1. An application for a Variance was filed in the Office of the Southborough Building Department on November 29, 2022.
2. The application for the Variance is to construct a 24'5" x 18' garage on the South side of their home at 35 Pine Hill Road. Relief was requested under Sections 174-8.2 D (3) (d) and Section 174-8.2 D (3) (c).
3. The record owners of the subject property are Alfred Hamilton and Diana Wainrib.

4. A public hearing before the Zoning Board of Appeals was duly noticed in the Community Advocate on January 4, 2023, and January 11, 2023.
5. The applicant was heard at the January 18, 2023 Zoning Board of Appeals meeting after describing that when they moved into the house in 1996, Angelica Lane, which borders their property on the south, did not exist. Prior to the existence of Angelica Lane, the applicant's property would have been subject to a 25-foot side setback. When Angelica Lane was built, Mr. Hamilton acquired a 10-foot-wide parcel from the developer, which then made the property subject to a 35-foot other street setback. The applicant described that the proposed garage would encroach on the 35-foot other street setback, but would comply with the previously required 25-foot side setback. The applicant stated that due to wetlands and steep grading on the back of the property, there is no other location to place the proposed garage.
6. The public hearing opened on January 18, 2023 and closed January 18, 2023.

**Plans/Documents:**

1. Letter from Building Commissioner/Zoning Enforcement Officer Laurie Livoli to Alfred Hamilton, re: Variance for 35 Pine Hill Road.
2. Project Narrative from Alfred Hamilton & Diana Wainrib, property owners
3. Plot plan of 35 Pine Hill Road, showing existing and proposed structures and setbacks.
4. Structural plans of proposed project
5. Certified Map of Abutters
6. 35 Pine Hill Road Quitclaim Deed
7. Assessor & GIS Maps documenting lack of abutters in Framingham
8. Site photos showing existing and proposed structures
9. Certified Abutters List – 35 Pine Hill Road
10. Legal Ad Billing Agreement
11. Letter of support – Kathy Cook, clerk for The Pine Hill Meadow Trust, Inc
12. Letter of support – Dick & Sue Snyder, 49 Pine Hill Road
13. Letter of support – Alexey & Elena Avdokhin, 37 Pine Hill Road
14. Letter of support – Felix & Anna Stukalin, 38 Pine Hill Road
15. Letter of support – Rahul Yarala, 34 Pine Hill Road

**Findings:**

1. The proposal does constitute a Variance under the Town of Southborough Zoning Bylaw.
2. The property is located in the Residence A District.
3. The applicant is seeking to construct a 24'5" x 18' garage on the South side of their home at 35 Pine Hill Road.
4. The proposal and evidence presented meets the criteria to grant the Variance:
  - a. The hardship is related to the structure of Angelica Lane.
  - b. The proposed setback is consistent with the existing setback of a pre-existing nonconforming shed on the property.
  - c. The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaws.
5. There are no objections from the public regarding this application, which is in harmony with the intent of the bylaw.

**Decision and Vote of the Board:**

At its meeting on January 18, 2023, the Zoning Board of Appeals voted unanimously (5-0-0) to grant the Variance pursuant to Section 174-8.2 D (3)(d) and Section 174-8.2 D(3)(c) to allow the construction of a garage that encroaches upon the required 35-foot other street setback.

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. Nicholson and seconded by Mr. Drepanos, with members voting by roll call as follows to grant the requested Special Permit:

Paul Drepanos	Aye
Craig Nicholson	Aye
Doris Cahill	Aye
Michael Robbins	Aye
David Williams	Aye

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David Williams, Chair

Signing on behalf of the Zoning Board of Appeals

*Notice: Appeals, if any, shall be made pursuant to MGL c. 40A, Section 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Southborough Town Clerk. Further, no variance, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, or that if it is a variance which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the petition for the variance accompanied by the certification of the city or town clerk stating the fact that the permit granting authority failed to act within the time prescribed, and no appeal has been filed, and that the grant of the petition resulting from such failure to*

*act has become final, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.*

*Pursuant to the Town of Southborough Zoning Bylaws, Section 174-25 (3), if the rights authorized by a variance are not exercised within one year from the date of grant thereof, they shall lapse, and a new petition, notice and hearing will be required for their reestablishment.*

**\*\* 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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