

**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 18, 2019

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

**Property Address:** 43 Highland Street; Recorded Worcester Registry of Deeds Book 51034, Page 275

**Appellants:** Albena Phillipo and Peter Kahn, 43 Highland Street, Southborough, MA

**Application Filed:** July 25, 2019

**Public Hearing:** September 18, 2019 at 7:00 P.M.  
McAuliffe Hearing Room,  
17 Common St  
Southborough, MA 01772

**Sitting as a Board:** Craig Nicholson, Chair  
David Williams, Clerk  
Deborah DeMuria  
Paul Drepanos

**For the Appellants:** Ms. Albena Phillipo and Mr. Peter Kahn, Applicants  
43 Highland Street  
Southborough, MA 01772

Mr. Ian Ferguson, FBL Inc.  
77 Downey Street  
Hopkinton, MA 01748

Ms. Marybeth and Mr. Michael Canova  
41 Highland Street  
Southborough, MA 01772

#### **Procedural History:**

1. An application for a Variance was filed in the Office of the Southborough Building Department on July 25, 2019.
2. The application for the Variance is to allow a front yard setback of 9 feet, three inches and 11 feet, two inches as opposed to the allowed 15 feet from the side property line in the Residence B District.
3. Relief was requested under Section 174.8.3 (D) (3).
4. The record owner of the subject property is Ms. Albenia Phillipo and Mr. Peter Kahn, 43 Highland Street, Southborough, MA.
5. A public hearing before the Zoning Board of Appeals was duly noticed in the Metro West Daily News on Wednesday August 7, 2019 and Wednesday August 14, 2019.
6. The applicants were heard at the August 21, 2019 Zoning Board of Appeals meeting after proposing their plans to construct a two car garage attached to the property with side setbacks less than the required 15 feet to the property line in a Residence B District. The hearing was continued to the September 18, 2019 meeting at 7:00 P.M. to enable the contractor, Ian Ferguson, to update the plans to include more measurements and the side setbacks and to provide a corrected plot plan.
7. Public hearing opened on August 21, 2019 and continued to and closed on September 18, 2019.

#### **Plans/Documents:**

1. Letter from Building Commissioner/Zoning Enforcement Officer Laurie Livoli to Ian Ferguson of IBL, Inc.
2. Certified Copy of Abutters List from the Town of Southborough, MA.
3. Certified Plot Plan for 43 Highland Street, Southborough, MA.
4. Proposed Building Plans for 43 Highland Street, Southborough, MA.
5. Set of five current photographs of the property illustrating the proposed project area.
6. Request for Continuation/Extension of a Hearing Process dated August 21, 2019.

#### **Findings:**

1. The proposal constitutes a Variance under the Town of Southborough Zoning Bylaw.
2. The property is located in the Residence B Zoning District.
3. The applicant is proposing to construct a two car garage attached to the property and will not meet the side setback requirements.
4. 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 inability for applicant to add a garage on any other location on the property.
  - b. The hardship is related to the configuration of the lot and the location of the septic tank.
5. The Board was satisfied that the Applicant, if denied this request, would suffer a hardship in that the allowable size of the setback and topography of the rest of the lot would not allow for the addition of a garage.

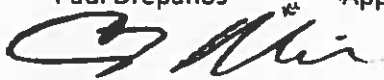
6. The Board decided that the granting of this relief would not substantially affect the public's good nor denigrate the spirit or purpose of the law. It was determined that the literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, 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 September 18, 2019, the Zoning Board of Appeals voted unanimously (4-0-0) to grant the Variance pursuant to Section 174.8.3 (D) (3) to allow Ms. Albenia Phillipo and Mr. Peter Kahn a side yard setback of 9 feet, 3 inches and 11 feet, 2 inches as opposed to the allowed 15 feet from the side property line for construction of an attached two car garage as presented.

After review of all evidence and facts presented at this hearing, and after deliberation of the same, the Board voted unanimously (4-0-0) on a motion made by Mr. Williams and seconded by Mr. Drepanos, with members voting as follows to grant the requested Variance:

Craig Nicholson	Approve
David Williams	Approve
Deborah DeMuria	Approve
Paul Drepanos	Approve



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Craig Nicholson, 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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