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Town of Southborough
INCORPORATED 1735
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

November 27, 2023

Notice of Decision of an Application for a Variance

Property Address: 5 Thayer Lane, Southborough, MA 01772

Map/Lot: Map 55, Lot 113

Book/Page: Book 53753, Page 56

Appellants: Christie & Adam Benson

Application Filed: September 1, 2023

Public Hearing: November 2, 2023 at 7:00 P.M.
Virtual meeting through Zoom
Continued to November 15, 2023 at 7:00 P.M.
Virtual Meeting through Zoom

Sitting as a Board: David Williams, Chair
Michael Robbins, Clerk
Paul Drepanos
Jamie Mieth
Doris Cahill

For the Appellants: Christie & Adam Benson

PROCEDURAL HISTORY

1. An application for a variance was filed in the Office of the Southborough Building Department and the Office of the Southborough Town Clerk on September 1, 2023.
2. The application for the variance is to allow two sheds within the front and side setbacks. Relief was requested under Section 174-25 A (3) and Section 174-8.3 (E).

3. The record owner of the subject property is Christie and Adam Benson.
4. A public hearing before the Zoning Board of Appeals was duly noticed in the Community Advocate on October 19, 2023, and October 26, 2023.
5. The applicant was heard at the November 2, 2023, and November 15, 2023, Zoning Board of Appeals meetings after describing they placed two sheds on their property, one located in the side setback and the other in the side and front setback. They were unaware at the time of installation that a variance would be required, and they are requesting a variance to keep the sheds as placed.
6. The public hearing opened on November 2, 2023, continued to November 15, 2023, and closed November 15, 2023.

PLANS & DOCUMENTS

1. Letter from Building Commissioner/Zoning Enforcement Officer Casey Burlingame to Lara Davis, Principal Assistant to the Zoning Board of Appeals, re: 5 Thayer Lane, dated May 11, 2023
2. Variance Application Form – 5 Thayer Lane, filed September 1, 2023
3. Project Narrative – 5 Thayer Lane
4. Certified Plot Plan – 5 Thayer Lane, prepared for Adam & Christie Benson by Continental Land Survey, LLC, dated July 10, 2023
5. Site Photographs – 5 Thayer Lane
6. Quitclaim Deed – 5 Thayer Lane, Book 53753, Page 56
7. Declaration of Homestead – 5 Thayer Lane, Book 53753, Page 72
8. Letter from Melissa Danza, Conservation Agent, re: 5 Thayer Lane, dated September 26, 2023
9. Letter of Support from Stephen Aspesi, 41 and 43 East Main Street
10. Certified Abutters List – 5 Thayer Lane
11. Legal Ad Billing Agreement

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 seeking to keep two existing sheds within the front and side setbacks, while proposing to move one shed 16 feet easterly per the request of the resident at 43 East Main Street.
4. The westerly shed is partially located within a drainage easement, and the easterly shed is located entirely within the drainage easement.
5. The proposal and evidence presented meet the criteria to grant the variance:
 - a. Due to the soil, topography, or shape of land, literal enforcement of Section 174 of the Town of Southborough Zoning Bylaw would involve substantial hardship to the petitioner.
 - i. The flat area of the property houses the septic system.
 - ii. The subject property has a significant slope on the westerly side.
 - iii. A constructed wetland, stormwater basin, and drainage easement are located on the easterly side of the property.
 - iv. There are no alternative locations for the sheds on the property due to the topography and shape of land.

- b. The desired relief will not have substantial detriment to the public good and will not nullify or substantially derogate from the intent or purpose of Section 174 of the Town of Southborough Zoning Bylaw.
 - i. The easterly shed will be moved 16 ft to the east per the request of the abutting resident at 43 East Main Street.
 - ii. The petitioner has received letters of support from the abutting residents at 41 and 43 East Main Street
 - iii. The petitioner stated they received a letter of support from the HOA.
- 6. There are no objections from the public regarding this application, which is in harmony with the intent of the bylaw.
 - a. The applicant has received letters of support from the abutting residents at 41 and 43 East Main Street.

DECISION AND VOTE OF THE BOARD

At its meeting on November 15, 2023, the Zoning Board of Appeals voted unanimously (5-0-0) to grant the variance pursuant to Section 174-25 A (3) and Section 174-8.3 (E) to allow two sheds to remain within the side and front setbacks, with the westerly shed remaining as placed and the easterly shed moved 16 feet to the east per the site plan titled "Certified Plot Plan" for 5 Thayer Lane, prepared for Adam & Christie Benson by Continental Land Survey, LLC, dated July 10, 2023, with the following conditions:

1. The petitioner will provide the Zoning Board of Appeals with a copy of the letter of support from the Heritage Crossing HOA.
2. The petitioner will provide the Zoning Board of Appeals and Conservation Commission with a report from a Professional Engineer (P.E.) that certifies:
 - a. Reasonable access for the purpose of management of the stormwater features remains with the placement of the two (2) sheds.
 - b. The placement of the sheds does not, in any way, impact the functionality and/or reduce the storage capacity of the basin.

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. Mieth, with members voting by roll call as follows to grant the requested Special Permit:

Michael Robbins	Aye
Doris Cahill	Aye
Jamie Mieth	Aye
Paul Drepanos	Aye
David Williams	Aye

Pursuant to the vote taken by the Zoning Board of Appeals on September 20, 2023, the following signatures are made in accordance with M.G.L. c.110G and pursuant to said Board's electronic signature authorization vote recorded on November 6, 2023 with the Worcester Registry of Deeds, Book 69850, Page 154.

/s/David Williams

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 A (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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