

RECEIVED
SOUTHBOROUGH CLERK
JULY 31 2024 10:50 AM
RES

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

July 1, 2024

Notice of Decision of an Application for a Special Permit & Variance

Property Address: 6 Parker Street, Southborough, MA 01772

Map/Lot: Map 3, Lot 8

Book/Page: Book 49445, Page 362

Petitioner: John Cage and Johanna Hyde

Application Filed: April 29, 2024

Public Hearing: June 26, 2024 at 7:00 P.M.
17 Common Street
Southborough, MA 01772

Sitting as a Board: David Williams, Chair
Michael Robbins, Clerk
Paul Drepanos
Doug Manz

For the Petitioner(s): John Cage
Johanna Hyde
Barry Crimmins, Esq.
Jason Kurtz, Architect, Kurtz Design Studios

Procedural History:

1. An application for a Special Permit & Variance was filed in the Office of the Southborough Town Clerk and Southborough Building Department on April 29, 2024.
2. The application for the Special Permit and Variance is to allow an alteration to a pre-existing, nonconforming structure that will encroach on the side setback. Relief was requested under the Town of Southborough Zoning Bylaw Section 174-8.3 D 3(c), Section 174-8.3 D 3(a), and Section 174-9 E.

3. The record owner of the subject property is John D. Cage and Johanna C. Hyde, 6 Parker Street, Southborough, MA 01772.
4. A public hearing before the Zoning Board of Appeals was duly noticed in the Community Advocate on June 11, 2024, and June 18, 2024.
5. The applicant was heard at the June 26, 2024 Zoning Board of Appeals meeting after describing they would like to demolish the existing garage and build a new two story addition with garage and living space to accommodate their family.
6. The public hearing opened on June 26, 2024 and closed the same evening.

Plans/Documents:

1. Special Permit & Variance Application – 6 Parker Street, dated April 29, 2024
2. Project Narrative – 6 Parker Street, dated April 26, 2024
3. Proposed Addition Plot Plan of Land – 6 Parker Street, prepared for John D. Cage & Johanna C. Hyde by Todd P. Chapin, Professional Land Surveyor No. 37558, dated April 9, 2024
4. Demolition Plan – 6 Parker Street, prepared by Jason Kurtz, Registered Architect No. 20404, dated April 10, 2024
5. Proposed Plan – 6 Parker Street, prepared by Jason Kurtz, Registered Architect No. 20404, dated April 10, 2024
6. Proposed Elevations – 6 Parker Street, prepared by Jason Kurtz, Registered Architect No. 20404, dated April 9, 2024
7. Aerial Photographs and Photographs of Subject Property – 6 Parker Street, Southborough, MA 01772
8. Deed – 6 Parker Street, Book 49445, Page 352
9. Certified Abutters List – 6 Parker Street, dated April 25, 2024
10. Legal Ad Billing Agreement, dated April 26, 2024

Findings:

1. The proposal does constitute a Special Permit under the Town of Southborough Zoning Bylaw.
2. The proposal does constitute a Variance under the Town of Southborough Zoning Bylaw.
3. The property is located in the Residence B zoning district.
4. The applicant is seeking to demolish the existing garage and build a two-story addition with garage and living space that will be 5.7 ft from the side property line at its closest point, where a 15-ft setback is required.
5. The existing structure is pre-existing nonconforming in that the original home was built around 1803 and the majority of the dwelling is within the required 30-ft front setback.
6. The existing lot is pre-existing nonconforming in that it was created in the early 1800's as having an area of 20,038 sq ft where 25,000 sq ft is required and 95 ft of frontage where 125 ft are required in the Residence B zoning district.
7. The Board finds the proposal and evidence presented meet the criteria to grant the Special Permit:
 - a. The proposed project is not in conflict with public health, safety, convenience and welfare.
 - b. The proposed addition is not substantially more detrimental to the neighborhood or destructive of property values therein, as the proposed design will be more cohesive with the historic nature of the home.
 - c. The proposed addition will not increase the extent of nonconformance in size or impact.

8. The proposal and evidence presented meet the criteria to grant the Variance:
 - a. Due to circumstances relating to soil conditions, topography, or the shape of land or structures, but not affecting generally the zoning district in which the property is located, the proposed addition cannot be located elsewhere on the property.
 - i. The existence of ledge and stone on the property creates a barrier to locating the proposed addition in an area that does not encroach on the side setback.
 - ii. The lot is pre-existing, nonconforming in size and frontage, and is considered undersized by Residence B dimensional regulations.
 - b. Literal enforcement of the Town of Southborough Zoning Bylaw would involve substantial hardship to the petitioner.
 - 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 Town of Southborough Zoning Bylaw.
9. There are no objections from the public regarding this application, which is in harmony with the intent of the bylaw.
 - a. Michelle Hannan, 3 Highland Street, spoke in favor of the proposed project under the condition it does not infringe upon her property rights.
 - b. David Malecki, 3 Cottage Street, spoke in favor of the proposed project.

Decision and Vote of the Board:

At its meeting on June 26, 2024, the Zoning Board of Appeals voted unanimously (4-0-0) to grant the Special Permit and Variance pursuant to the Town of Southborough Zoning Bylaw Section 174-8.3 D 3(c), Section 174-8.3 D 3(a), and Section 174-9 E to allow the construction of a two-story addition with garage and living space on a pre-existing, nonconforming structure that will encroach on the side setback.

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

Paul Drepanos	Aye
Doug Manz	Aye
Michael Robbins	Aye
David Williams	Aye

/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 special permit, 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 special permit or 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 special permit or 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.

The Board of Appeals calls to the attention of the owner or applicant that pursuant to M.G.L. c. 40A, § 9, this Special Permit shall lapse within two years of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in M.G.L. c. 40A, § 17, if substantial use thereof has not sooner commenced, except for good cause.

**** 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
1775196 1 09569.001