

2024 JUN 31 A 11:50

ksb

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: 77 Deerfoot Road, Southborough, MA 01772
Map/Lot: Map 34, Lot 1
Book/Page: Book 60314, Page 128
Petitioner: Ellen & Michael Moorehead
Application Filed: May 1, 2024
Public Hearing: June 26, 2024 at 7:15 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): Ellen & Michael Moorehead

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 May 1, 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 174-8.2 D 3(c) and Section 174-19.
3. The record owner of the subject property is Ellen Moorehead and Michael Moorehead, 77 Deerfoot Road, 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 construct a 2-car garage that would encroach on the side setback.
6. The public hearing opened on June 26, 2024 and closed the same evening.

Plans/Documents:

1. Special Permit & Variance Application – 77 Deerfoot Road, dated May 1, 2024
2. Project Narrative – 6 Parker Street
3. Existing Plot Plan – 77 Deerfoot Road, prepared for Ellen & Michael Moorehead by Joseph I. Levesque III, Registered Professional Land Surveyor No. 53840, dated April 26, 2024.
4. Proposed Plot Plan – 77 Deerfoot Road, prepared for Ellen & Michael Moorehead by Joseph I. Levesque III, Registered Professional Land Surveyor No. 53840, dated April 26, 2024.
5. Architectural Plan Set – 77 Deerfoot Road, prepared by Michael Moorehead, Registered Architect No. 50213, dated January 27, 2024
6. Photographs of the Subject Property – 77 Deerfoot Road
7. Deed – 77 Deerfoot Road, Book 60314, Page 128
8. Certified Abutters List – 77 Deerfoot Road, dated April 29, 2024
9. Legal Ad Billing Agreement, dated April 20, 2024
10. Letter of Support – Siddharth & Pooja Parulkar, 79 Deerfoot Road, dated April 23, 2024
11. Letter of Support – Keturah & Suzanne Martin, 75 Deerfoot Road, dated April 23, 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 A zoning district.
4. The applicant is seeking to construct a 2-car garage that will have a 14.4 ft side setback where a 25 ft side setback is required.
5. The existing structure is pre-existing nonconforming in that the original home was built in approximately 1840 and has a 28 ft front setback where a 35 ft front setback is required.
6. 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.
 - i. The proposed addition will conform with abutting residences in style and use.
 - c. The proposed addition will not increase the extent of nonconformance in size or impact.
7. The Board finds 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 on alternative areas of the property
 - i. A perennial stream is located at the rear of the property, buffer zones of which encompass a majority of the site.
 - ii. The property was once part of a larger parcel that was divided, creating a lot shape incompatible with locating the addition elsewhere on the property.

- 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.
8. There are no objections from the public regarding this application, which is in harmony with the intent of the bylaw.
- a. Siddharth Parulkar, 79 Deerfoot Road, spoke in support 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 174-8.2 D 3(c) and Section 174-19 to allow the construction of a garage 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 Mr. Robbins and seconded by Mr. Drepanos, 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 09589.001