

Leicester Zoning Board of Appeals

RECEIVED

PERMIT TYPE: ☐ Special Permit ☒ Variance

Date: 2016 JUL -5 PM 12: 30

Owner Information			
Owner Name:	C. B. Blair Development Corporation		
Owner Signature:			
Address:	87 Main Street, Rutland, Massachusetts 01543		
Phone:	(508) 886-2275	Fax:	
Email:			
Applicant Information			
Applicant Name:	C. B. Blair Development Corporation		
Applicant Signature:			
Address:	87 Main Street, Rutland, Massachusetts 01543		
Phone:	(508) 886-2275	Fax:	
Email:			
Project Information			
Project Address:	182 Paxton Street, Leicester	Zoning District:	SA
Assessors Map & Parcel #	Map 15, #19.17	Deed Reference (Book & Page):	19370, 314
Applicable Zoning Bylaw Section(s):	Section 4.3: Dimensional Requirements		
Brief Description of Application:			
<p>The applicant proposes to build a single family home at 182 Paxton Street, also known as Lot 1 on a Plan entitled "Plan of Land", located in Leicester, Massachusetts and prepared for C.B. Blair Development Corp., dated December 23, 1998 and recorded with the Worcester Registry of Deeds, Plan Book 741, Plan 77. The lot is located in a suburban-agricultural zone.</p>			
State Briefly Reasons for Variance or Special Permit:			
<p>A variance is needed from the dimensional requirements of Section 4.2 of the Zoning Bylaws. Specifically, a variance is required from the minimum area and frontage requirements. The lot has an area of 47,790 square feet and frontage of 199.19 feet. At the time of its creation in 1998, the minimum area required in a suburban-agricultural zone was 50,000 square feet and the minimum frontage was 200.00 ft. As it stands now, the lot is only .81 feet short of the minimum frontage requirements. In 2001, after the subdivision was established most of the lots built, the minimum area in a suburban-agricultural zone was increased to 80,000 square feet. Allowing a variance would allow this lot to be developed in keeping with the character of the already constructed and long-established subdivision with surrounds it. A grant of a variance to permit construction on Lot 1 represents no detriment to the public good, does not nullify or degrogate the purpose of the Zoning By-Law and failure to grant the variance would involve the applicant in significant financial hardship, as it would be left with an unbuildable lot.</p>			

Attach additional pages as necessary to fully describe the application.

TOWN OF LEICESTER

REASONS WHY A VARIANCE SHOULD BE GRANTED

Now comes the petitioner, C.B. Blair Development Corporation, who has petitioned this Honorable Board for a Variance for property located at 182 Paxton Street, Leicester, Massachusetts and presents the following reasons why a variance should be granted allowing the construction of a single family home at 182 Paxton Road, Leicester, Massachusetts, also known as known as Lot 1 on a plan entitled "Plan of Land", located in Leicester, Massachusetts and prepared for C. B. Blair Development Corp, dated December 23, 1998 and recorded in the Worcester Registry of Deeds Plan Book 741, Plan 77.

1. The Board of Appeals has the power to grant a variance from the minimum frontage and area requirements.

The power to grant a variance is within the power of the Zoning Board of Appeals. Under section 6.4.03 of the Zoning By-Laws, "the Board of Appeals shall have the power, after a public hearing as provided in Section II of the Zoning Act, to grant upon appeal or petition regarding land or structures, a variance from the terms of any applicable sections of this By-Law." The Board should use this power now to allow the construction of a single family home at 182 Paxton Street. Specifically, the Board should grant a variance from the minimum frontage and area requirements.

The Board is only permitted to grant a variance unless it specifically finds the following two conditions to be true:

1. That owing to the circumstances relating to the soil conditions, shape or topography of the land or structure involved and especially affecting such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Zoning By-Law would involve substantial hardship, financial or otherwise, to the applicant.

2. 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 this Zoning By-Laws.

Both of these conditions are met in this case.

2. Because of the shape of the lot, a circumstance which does not generally affect the zoning district in which it is located, literal enforcement of the By-Laws would involve substantial hardship, financial or otherwise, to C. B. Blair Development.

182 Paxton Street, also known as Lot 1, fails to meet the minimum standards for zoning and frontage as required by Section 4.2 of the Zoning By-laws for property located within a suburban-agricultural zone. Rather than the 200 feet of frontage required by the By-laws, the property has 199.19 feet. The difference between the required frontage and the actual frontage is less than a foot. Practically However, the land is not held in common ownership with any of the surrounding lots and C. B. Blair Development has no ability to add frontage to the lot.

Nevertheless, to prevent the applicant from constructing a single-family home because of a shortage of .81 feet would represent a substantial financial hardship for C. B. Blair Development, one which vastly outweighs the small shortfall in frontage.

Furthermore, the property only has 47,790 square feet of area rather than the required minimum of 80,000 square feet. Note, however, that when the lot was designed in 1998, the minimum square footage in a suburban-agricultural zone was only 50,000 square feet. Moreover, it is to this standard that all the other lots in the subdivision comply. A single family home constructed at 182 Paxton Street would be in keeping with the style and aesthetic of the neighborhood. If C.B. Blair Development is not allowed to construct a single family home on the property, however, it will suffer significant financial hardship. Because of the new zoning requirements, any construction on the site requires a variance. Without one, the lot is unbuildable and will remain vacate, rather than being used for the purpose for which it was originally designed.

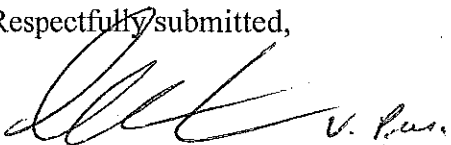
3. A variance should be granted because doing so does not represent a substantial detriment to the public good and does not nullify or substantially derogate the intent or purpose of the Zoning By-Laws.

No detriment to the public good will occur if C. B. Blair Development is allowed to construct a single family home at 182 Paxton Road. As stated above, the other lots in the surrounding subdivision all contain approximately the same amount of square footage as Lot 1. These homes have been built for almost two decades. An engineering error relating to the closing of the lot boundaries prevented Lot 1 from being developed alongside the other parcels in 1998. In the absence of that error, the lot would have been developed in 1998 and would not now need this board to grant a variance. It is difficult to determine how the public good could be damaged by the continuation of a twenty year plan,

Furthermore, a grant of a variance does not nullify or substantially derogate the intent and purpose of the Zoning By-Laws. The variation between the required minimum frontage and the actual frontage on the lot is less than a foot—so small as to be considered *de minimis*. And, while the difference between the required minimum area for a suburban-agricultural zone and the actual area of the lot itself is approximately 30,000 square feet, the size of the lot is consistent with the long established neighborhood. Additionally, the lot complies with the minimum area and frontage requirements of both the Residential 1 (so long as it is connected to public sewer and water) and Residential 2 zones. Indeed, it exceeds both. Clearly, a grant of a variance allowing construction of a single family home at 182 Paxton Road does not nullify or substantially derogate the intent and purpose of the Leicester Zoning By-Laws.

For the aforementioned reasons, C. B. Blair Development believes that a variance should be granted allowing it to construct a single family home at 182 Paxton Road in Leicester

Respectfully submitted,



C.B. Blair Development Corporation

Date: March 14, 2016.

TOWN OF LEICESTER

*LIST OF HARDSHIPS IN CONNECTION WITH A
PETITION FOR A VARIANCE*

Now comes the petitioner, C.B. Blair Development Corporation, who has petitioned this Honorable Board for a Variance for property located at 182 Paxton Street, Leicester, Massachusetts and presents the following list of hardships relating to the property located at 182 Paxton Road, Leicester, Massachusetts:

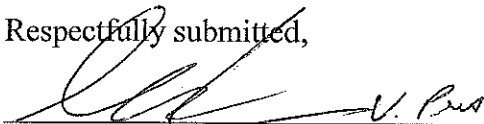
1. Hardships Relating to the Minimum Frontage Requirement

- a.) The lot only contains 199.19 feet of frontage.
- b.) Section 4.2 of the Leicester Zoning By-Laws requires 200 feet of frontage in suburban-agricultural zone. 182 Paxton Road is located in the suburban-agricultural zone.
- c.) The property is .81 feet short of the required minimum.
- d.) The property is not held in common ownership with any of the surrounding property.

2. Hardships Relating to the Minimum Area Requirement

- a.) The lot only contains 47,790 square feet of area.
- b.) Section 4.2 of the Leicester Zoning By-Laws requires that a lot in suburban-agricultural zone contain a minimum of 80,000 square feet. 182 Paxton Road is located in the suburban-agricultural zone.
- c.) The property is 32,321 square feet short of the minimum square footage.
- c.) At the time of the creation of the lot, the Leicester Zoning By-law only required a minimum area of 50,000 square feet.
- d.) The property is only 2,210 square feet short of the minimum square footage in place at the time of the lot's creation.
- e.) All the other lots in the Carey Hill subdivision adhere to the 50,000 square foot minimum.
- f.) The property is not held in common ownership with any of the surrounding property.

Respectfully submitted,


C.B. Blair Development Corporation

Date: March 14, 2016

TOWN OF LEICESTER

*REQUEST FOR FINDINGS OF FACT IN CONNECTION WITH A
PETITION FOR A VARIANCE*

Now comes the petitioner, C.B. Blair Development Corporation, who has petitioned this Honorable Board for a Variance for property located at 182 Paxton Street, Leicester, Massachusetts and asks that said Board make the following findings of fact:

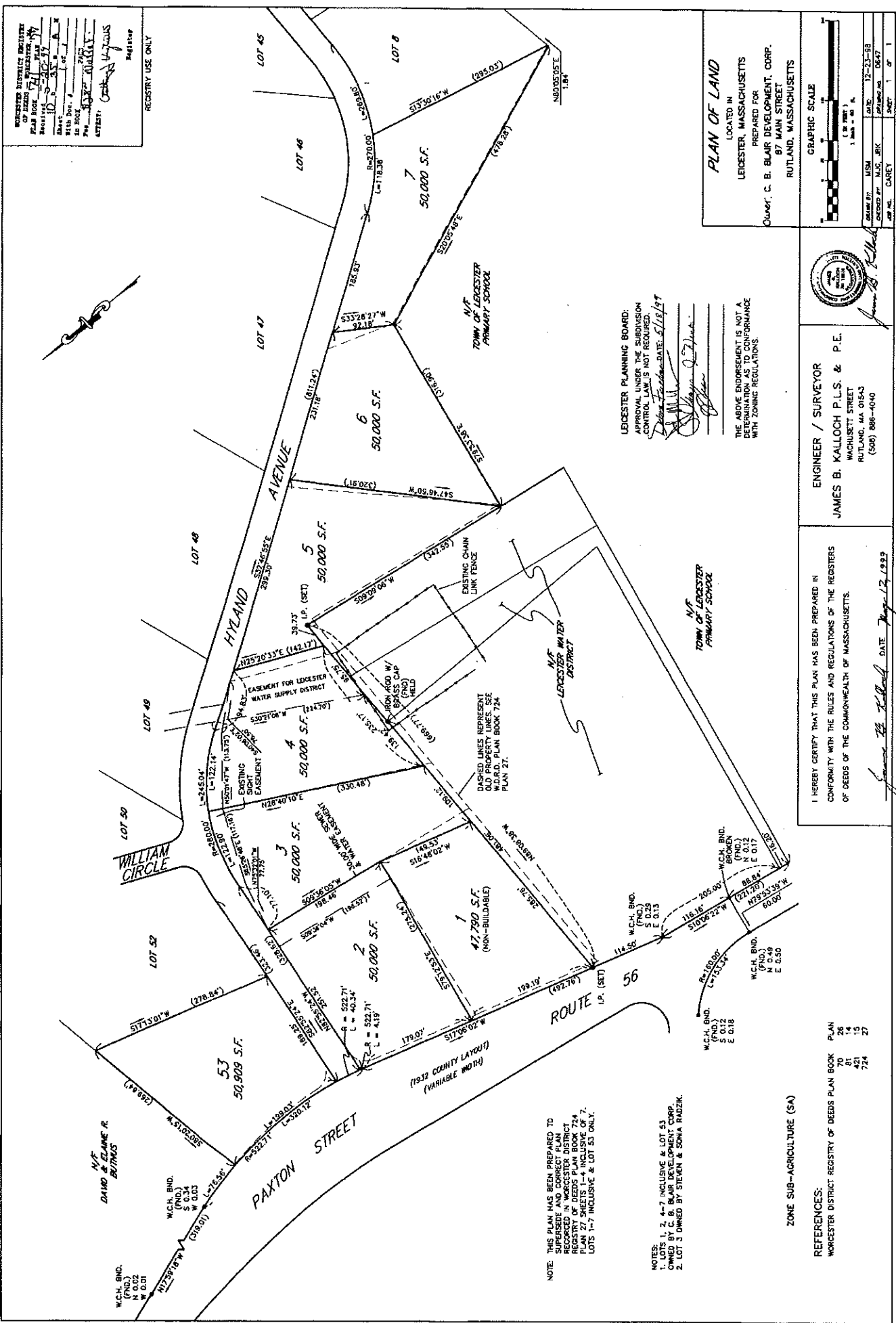
1. That owing to circumstances relating to the soil conditions, shape or topography of the land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the Zoning By-laws would involve a substantial hardship or otherwise, to the petitioner for the following reasons:
 - a) The lot fails to comply with the minimum frontage requirements for a lot located in a suburban-agricultural zone. Under Section 4.2 of the Zoning By-Laws, the minimum frontage requirement is 200 feet. Lot 1 has frontage of 199.19 feet. It is .81 feet short of the minimum.
 - b) To prevent construction of a single family house on Lot 1 because of the frontage is .81 feet short of the minimum requirements would involve a substantial hardship to the applicant.
 - c) The lot fails to comply with the minimum area requirements for a lot located in a suburban-agricultural zone. Under Section 4.2 of the Zoning By-Laws, the minimum area requirement is 80,000 square feet. At the time the lot was created, in 1998, however, the minimum area requirement was 50,000 square feet. Lot 1 has an area of 47,790 square feet.
 - e) To prevent construction of a single family house on Lot 1 because the area is short of the minimum requirements would involve a substantial hardship to the applicant.
 - d) The lot is not held in common ownership with any of the surrounding lots.
2. That no substantial detriment to the public good would result from granting the Variance for the following reasons:
 - a) The lot is substantially the same as the other lots in the subdivision, which have been built and occupied for almost twenty years.
 - b) The lot meets the area and frontage requirements for the bordering zone, Residential-2.

3. That no nullification or substantial derogation from the intent or purpose of the Zoning Bylaws would result from granting the Variance for the following reasons:
- a) The deviations from the prior zoning requirements are minor and do not represent nullification or substantial derogation from the intent or purpose of the Zoning By-Laws. Indeed, the lot substantially conforms with the numerous lots already built in the Carey Hill subdivision.

Respectfully submitted,


C.B. Blair Development Corporation

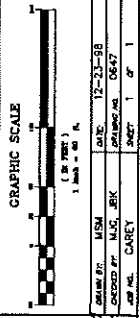
Date: March 14, 2016



REGISTERED DISTRICT REGISTER
OF MASSACHUSETTS
PLAN BOOK 724
RECEIVED 12-20-97
DATE 12-20-97
BY 10 35 W A
IN BOOK 724
FOR 10 35 W A
ATTEST: *[Signature]*
Register

REGISTRY USE ONLY

PLAN OF LAND
LOCATED IN
LEICESTER, MASSACHUSETTS
PREPARED FOR
OWNER: C. B. BLAIR DEVELOPMENT, CORP.
87 MAIN STREET
RUTLAND, MASSACHUSETTS



LEICESTER PLANNING BOARD:
APPROVAL UNDER THE SUBDIVISION
CONTROL LAW IS NOT REQUIRED.
[Signature]
DATE: 5/18/97

THE ABOVE ENDORSEMENT IS NOT A
DETERMINATION AS TO CONFORMANCE
WITH ZONING REGULATIONS.



ENGINEER / SURVEYOR
JAMES B. KALLOCH P.L.S. & P.E.
WACHUSETT STREET
RUTLAND, MA 01543
(508) 888-4040

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN
CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS
OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

[Signature] DATE: 12-17-98

NOTE: THIS PLAN HAS BEEN PREPARED TO
SUPPORT THE SUBDIVISION OF THE
REGISTERED DISTRICT
REGISTER OF DEEDS PLAN BOOK 724
PLAN SHEETS 1-4 INCLUSIVE OF 7.
LOTS 1-7 INCLUSIVE & LOT 53 ONLY.

NOTES:
1. LOTS 1, 2, 4-7 INCLUSIVE & LOT 53
OWNED BY C. B. BLAIR DEVELOPMENT CORP.
2. LOT 3 OWNED BY STEVEN & SONIA RADZIK.

ZONE SUB-AGRICULTURE (SA)

REFERENCES:

Worcester District Registry of Deeds Plan Book	PLAN
724	26
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06/30/2016

10:42:16AM

Town of Leicester

Abutters List

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ParcelID	Location	Owner	Co-Owner	Mailing Address	City	State	Zip
12 D3 0	189 PAXTON ST	VENTURE COMMUNITY SERVICE I		1 PICKER ROAD	STURBRIDGE	MA	01566
12 D3.1 0	193 PAXTON ST	NGUYEN BOBBY CHI		494 MARSHALL ST	LEICESTER MA	MA	01524
12 D3.2 0	217 PAXTON ST	LAMPREY LINDA M		217 PAXTON STREET	LEICESTER	MA	01524
15 A19.15 0	6 HYLAND AV	DAVIS BRIAN P	STINCHFIELD-DAVIS PAULA	6 HYLAND AVENUE	LEICESTER	MA	01524
15 A19.16 0	4 HYLAND AV	LOOSEMORE W STUART	LOOSEMORE JULIE L	4 HYLAND AVENUE	LEICESTER	MA	01524
15 A19.18 0	2 HYLAND AV	GUZMAN JOSEPH A	GUZMAN MARGARET	2 HYLAND AVENUE	LEICESTER	MA	01524
15 A19.2 0	180 PAXTON ST	LEICESTER WATER SUPPLY DIST		PAXTON ST	LEICESTER	MA	01524
15 A19.4 0	1 HYLAND AV	BLAIR STEVEN W	BLAIR LISA M	1 HYLAND AVENUE	LEICESTER	MA	01524
15 A19.5 0	3 HYLAND AV	NEALE FRANCIS A	NEALE PATRICIA E	3 HYLAND AVENUE	LEICESTER	MA	01524
15 A20 0	180 PAXTON ST	LEICESTER WATER SUPPLY DIST		PAXTON ST	LEICESTER	MA	01524
16 A3.3 0	PAXTON ST	HYLAND ROBERT M		17 WHITEMORE ST	LEICESTER	MA	01524

End of Report

Above is a certified list of abutters to the abutters within 300 feet of subject.
 Subject property: 182 Paxton Street, Assessors Map 15-A19.17-0, Deed Ref. 19269/145
 Subject owner: CB Blair Development Corp.

John Prescott, Principal Assessor

Prepared by: Kathleen Asquith, Assistant