

**Zoning Board of Appeals
Meeting Minutes**

Minutes of January 10, 2018

Hearing on the petition of Jeremy Wooden of 29 Rawson Drive, Leicester, MA for a Variance to build an addition 24.9-feet from front property line and 11.8-feet from sideline and for a Special Permit to extend a pre-existing nonconforming structure.

Members present: Vaughn Hathaway, Chair; Jim Buckley, Clerk; David Orth, David Kirwan, Jim Reinke

Alternate members present: Mary Moore

Meeting called to order at 7:30PM

Instructions given on hearing procedures.

Voting at tonight's hearing: Jim Reinke, Jim Buckley, Vaughn Hathaway, David Kirwan and David Orth

Mr. Buckley read the Notice, Application, Finding of Facts and a letter from the Building Inspector into the record.

Submitted into evidence: Registered Plot plan, a plan showing the proposed structure, green and white return receipts from the Certified Mailing.

Correspondence received: Site Consideration from the Building Inspector read into the record by Mr. Hathaway.

At this point, Mr. Hathaway opened the hearing to the applicant to present his petition, noting the Variance would be heard first, giving a brief explanation on variance requirements.

Mr. Jeremy Wooden made the presentation.

The house was currently a 2 bedroom house and they have 3 children. He looked into putting the addition on the waterside, but found it would have been too much of a challenge and was not feasible. On the other side, a stream runs along the property, and there's also a tight-tank on the property. Therefore, this location was the only spot they found to expand the footprint that still kept it 10-feet from the tight-tank, although it was closer to the road.

There will also be a garage that will face the road.

He felt this was the best place without further infringing on his neighbors, and won't bring the addition any closer to the water.

This design was the best way to tie the existing second level into what will be the new second level. The current 2nd level bedroom will become a closet and hallway leading into 2 new bedrooms. One for his 2 sons and one for his daughter.

The garage will help protect the car & family from outside elements and provide safe access to the house.

Mr. Kirwan asked whether the existing home would be changed outside the original footprint.

Mr. Wooden said no.

Mr. Orth noted the reason for the variance was because the garage would further encroach on the setback.

Mr. Hathaway explained the difference between the variance and the special permit. He said if the applicant was only building the addition up on the existing footprint, it would have only required a special permit for alteration and extension of existing structure. The reason for a variance was because the garage was going closer to the property line than the original house.

Mr. Wooden said in the front, the house was 25-feet from the property line. Although, he was told that because the road was a private road, he actually owned to the middle of the road. Therefore, when he had the property surveyed, he had the surveyor add in half the road onto the frontage.

Mr. Hathaway asked with the road added on, what was and what will be the setback from the road.

Mr. Wooden said from the edge of the road to the property line was 24.9 feet and the surveyor added on 20-feet of the road.

Mr. Buckley said the letter from the Building Inspector states the plot plan shows the addition will be 24.9 feet from the front property line. He questioned whether the building inspector considered the road being added in, because then the garage wouldn't be encroaching with the additional 20-feet.

Mr. Kirwan asked whether they investigated the possibility on putting the addition anywhere else on the lot, or attaching it to the home in another fashion.

Mr. Wooden explained they have the pond in back, a stream along the side and two tight-tanks that they can't encroach upon and are required to be 10-feet away. Where the addition was proposed was their only option.

Mr. Orth noted with a one-car garage, it wouldn't be further encroaching.

Mr. Wooden said they don't have an attic or basement and was hoping to use the garage for storage, as well as their cars.

He explained the garage would provide safe access to the house and the addition will provide separate bedrooms for their 2 sons and their daughter.

Mr. Hathaway explained a one-car garage would meet the side setback, but it still won't meet the front setback from the road.

Mr. Vincent Dagastino, contractor said the only area for the addition was at that corner of the lot where it was already nonconforming. They just want to add to that by 2-feet towards the wooded lot across the street. The road is a dead-end road and was second to the last house on the road. There's only one neighbor who would see the addition, where they already encroach on that side.

Mr. Kirwan asked whether the topography of the land prevented the addition to go anywhere else on the lot and if the applicant could explain the hardship if the Board were to deny the application.

Mr. Wooden said they would have to move because the house was too small to fit 5 people comfortably and they needed the extra bedrooms for their children to have their own rooms.

Right now, they have 3 children, of different genders, in one room.

It would also create a financial burden, as well as an emotional burden to the family if they had to move.

Mr. Martin Pratt, 31 Rawson Drive said the variance was for only 4 feet and because of the location of the well, the septic, the stream and the waterfront; this was the only area that could deal with an extension that would work, in the least expensive way.

Mr. Reinke asked where Mr. Pratt's house was located in relation to this lot.

Mr. Pratt said he lived next door and where they wanted to put the addition would not obstruct his view of the lake.

Mr. Hathaway asked for any further comments or questions, hearing none, asked for a motion.

MOTION: Mr. Kirwan moved to approve the petition of Jeremy Wooden of 29 Rawson Drive, Leicester, MA for a Variance to build an addition 24.9-foot from front property line and 11.8-feet from the sideline, as described on the Registered Plot plan dated 11/3/2017.

SECONDED: Mr. Orth – Discussion: None – VOTE: All in Favor

Finding of Facts:

David Orth voted in favor of the motion because he felt the petitioner demonstrated hardship and the inability to relocate on property. There was no other feasible location, therefore met hardship due to the topography of the land, as well as a financial hardship.

David Kirwan voted in favor of the motion because he felt the topography of land and proposed addition could not be located anywhere else. Future living arrangements would become intolerable and the addition was needed. Not to approve would involve substantial financial hardship and proposed relief would not be a detriment to the neighborhood.

Vaughn Hathaway voted in favor of the motion because he felt this met conditions for hardship and was shown that the addition could not be located anywhere else on lot. This change would not cause an adverse effect or be a detriment to the neighborhood. He felt the petitioner did good job trying to figure out where the addition fit best on the lot.

Jim Buckley voted in favor of the motion because he felt it met the requirements & criteria of the Leicester Zoning Bylaws for the granting of a variance

Jim Reinke voted in favor of the motion because he felt it met hardship, due to the topography of the land, and could not be placed anywhere else on lot. That it would involve a substantial financial hardship if not approved.

Mr. Hathaway gave instructions on the Appeal process and filing this decision with the Registry of Deeds.

Special Permit Hearing

Mr. Hathaway asked for any further discussion, comments or questions, hearing none asked for a motion.

MOTION: Mr. Reinke moved to approve the petition of Jeremy Wooden of 29 Rawson Drive for a Special Permit to extend a pre-existing nonconforming structure.

SECONDED: Mr. Kirwan – Discussion: None – VOTE: All in Favor

Mr. Hathaway gave instructions on the Appeal process and filing this decision with the Registry of Deeds.

MOTION: Mr. Kirwan moved to close the hearing

SECONDED: Mr. Buckley – Discussion: None – VOTE: All in Favor

General Minutes

Board members met with potential new member – Ann Marie Walsh Pierozzi

Approval of Minutes

11/29/2017

Tabled

6-24-1999 – Executive Minutes

MOTION: Mr. Buckley moved that the Zoning Board of Appeals determine that the disclosure of the Executive Minutes of June 24, 1999 regarding Southwestern Bell d/b/a Cellular One, would no longer defeat the purposes of the executive session and to release such minutes as a public record.

SECONDED: Mr. Reinke – Discussion: None – VOTE: All in Favor

Hearing no further comments or discussion, Mr. Hathaway asked for a motion to adjourn.

MOTION: Mr. Kirwan moved to adjourn meeting

SECONDED: Mr. Buckley – Discussion: None – VOTE: All in Favor

Meeting adjourned at 8:35PM

Respectfully submitted:

Barbara Knox

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