



Town of Pepperell
BOARD OF APPEALS
One Main Street
Pepperell, Massachusetts 01463

DECISION

APPLICATION #: ZBA-2016-02

APPLICANT(s): Chris and Julia Boyce

OWNER(s) OF PROPERTY: Chris and Julia Boyce

LOCATION OF PROPERTY: 2 Deerfield Drive

RELIEF REQUESTED: Variance

DECISION OF BOARD: Granted

DATE OF DECISION: March 23, 2016

STATEMENT OF FACTS:

Application submitted to Town Clerk: February 10, 2016

Cited Section(s) of Zoning Chapter of the Code of the Town of Pepperell and any other applicable Zoning Law: 9200, 9222 and 4140

Application copied to the Assessor's Office, Inspector of Buildings, Planning Board, Conservation Commission, Pepperell Police Department, Pepperell Fire Department, Town Engineer, Highway Department, Board of Health, Water Department, Sewer Department, Communications Director, Historical Commission, Treasurer/Collector and Town Counsel: February 11, 2016

Dates of Published Notice of Hearing: March 4, 2016 and March 11, 2016 issues of the "Nashoba Valley Voice".

Notification of parties in Interest: Mailed Notice of Public Hearing to abutters and to the abutting towns of Groton, MA; Townsend, MA; Dunstable, MA; Brookline, NH; Hollis, NH; and Nashua, NH on: March 1, 2016

Date of Public Hearing(s): March 23, 2016

Board of Appeals Members present at Public Hearing of March 23, 2016: Mark Walsh, Annette McLean and Jan Adamczyk. Also present: Cheryl Lutcza (Assistant to Zoning Board of Appeals)

CONTENTS OF TOTAL APPLICATION:

Exhibit A:	Certified List of Abutters (Pepperell, MA) – December 1, 2015
Exhibit B:	New Application Memo to ZBA & Town Counsel – February 11, 2016
Exhibit C:	New Application Memo to Town Boards/Departments – February 11, 2016
Exhibit D:	Response from Treasurer-Collector – February 11, 2016
Exhibit E:	Letter from Town Counsel – February 7, 2016
Exhibit F:	Email from Town Counsel – February 15, 2016
Exhibit G:	Follow-up letter from Town Counsel – February 16, 2016
Exhibit H:	Response from Town Engineer – February 11, 2016
Exhibit I:	Response from Fire Department – February 11, 2016
Exhibit J:	Notice of Public Hearing/Legal Ad – March 23, 2016
Exhibit K:	Response from Historical Commission – February 25, 2016
Exhibit L:	Meeting Notice/Agenda – March 23, 2016
Exhibit M:	Affidavit of Mailing of Notice of Public Hearing – March 1, 2016
Exhibit N:	Hearing and Fees Letter to Applicant – March 7, 2016
Exhibit O:	Response from Conservation Commission – February 29, 2016
Exhibit P:	Legal Ad Copy from Nashoba Valley Voice – March 4, 2016
Exhibit Q:	Response Memo to ZBA from C. Lutcza – March 14, 2016
Exhibit R:	Meeting Notice/Agenda (revised) – March 23, 2016
Exhibit S:	Legal Ad Copy from Nashoba Valley Voice – March 11, 2016
Exhibit T:	Letter (email) in Support of Application from Tammy Costa (abutter) – March 15, 2016
Exhibit U:	Email from Paula Terrasi (Conservation Commission Administrator) – March 15, 2016
Exhibit V:	Response from Town Counsel regarding email from P. Terrasi – March 16, 2016
Exhibit W:	Email from DPW Office verifying Town Water and Sewer at subject property – March 17, 2016
Exhibit X:	Additional Response Memo to ZBA from C. Lutcza – March 21, 2016
Exhibit Y:	Hearing Attendance Sheet – March 23, 2016

FEES:

Applicants paid to the Town of Pepperell (1) a filing fee of \$100.00; (2) a postage fee in the amount of \$32.55, to notify Parties in Interest of the Public Hearing and Decision; and (3) a fee to the “Nashoba Valley Voice” in the amount of \$200.48, for the legal advertising of the public notices.

STATEMENT OF CASE:

The Board of Appeals conducted a public hearing on March 23, 2016, regarding an application submitted by Chris and Julia Boyce requesting a Zoning Board of Appeals VARIANCE, under Sections 9200, 9222 and 4140 (Table of Dimensional Controls) of the Town of Pepperell Zoning By-Law, which if granted, would allow a Variance of 13-feet 4-inches from the 25-foot generally applicable side yard requirement in order to construct an addition consisting of a family/great room, with an expanded finished basement below. The current side yard setback of 15 feet, as part of Planning Board Special Permit 93-2, was amended by Planning Board Special Permit 2015-05 on February 1, 2105. Subject property is located at 2 Deerfield Drive, Pepperell, MA, as shown on Assessor's Map 11 as Parcel 182-0.

Applicants, Chris and Julia Boyce, were present. Members of the public were not present at the hearing. The Applicants addressed the Board regarding the requested relief. Motion was made, and all Board Members concurred, to **grant** the requested relief.

Details of the hearing are available in the ZBA Meeting Minutes of March 23, 2016.

FINDINGS:

1. The subject property is located at 2 Deerfield Drive, Pepperell, MA, as shown on Assessor's Map 11 as Parcel 182-0.
2. The property is located in the Recreational District.
3. Abutters and/or members of the public were not present at the hearing.
4. Property is serviced by town water (per DPW Office)
5. Property is serviced by town sewer (per DPW Office)
6. The Board finds that where owing to circumstances relating to the soil conditions, shape or topography of such 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 provisions of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and 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 such Bylaw.

CONDITIONS:

1. The Applicant(s) shall apply for and obtain all necessary permits and all construction shall be in accordance with all applicable state and local codes and regulations.
2. The granting of the dimensional variance under the Pepperell Zoning By-law does not relieve the applicant of the responsibility of complying with all other state and local statutes and regulations affecting the premises.

CONCLUSION:

The Board of Appeals finds that the requested relief, a **VARIANCE**, may be **granted** under Sections 9200, 9222 and 4140 (Table of Dimensional Controls) of the Town of Pepperell Zoning By-law, to allow a Variance of 13-feet 4-inches from the 25-foot generally applicable side yard requirement in order to construct an addition consisting of a family/great room, with an expanded finished basement below. The current side yard setback of 15 feet, as part of Planning Board Special Permit 93-2, was amended by Planning Board Special Permit 2015-05 on February 1, 2105. Subject property is located at 2 Deerfield Drive, Pepperell, MA, as shown on Assessor's Map 11 as Parcel 182-0.

DECISION:

Based on the foregoing findings and conclusions, the Board **grants** the requested relief, a **VARIANCE** of 13-feet 4-inches from the 25-foot generally applicable side yard requirement in order to construct an addition consisting of a family/great room, with an expanded finished basement below. The current side yard setback of 15 feet, as part of Planning Board Special Permit 93-2, was amended by Planning Board Special Permit 2015-05 on February 1, 2105. Subject property is located at 2 Deerfield Drive, Pepperell, MA, as shown on Assessor's Map 11 as Parcel 182-0.

So decided this 23rd day of March 2016 by role call vote as listed:

Mark Walsh:	Aye
Annette McLean:	Aye
Jan Adamczyk	Aye

CERTIFICATIONS:

We, the undersigned members of the Board of Appeals of the Town of Pepperell, certify that we attended and participated in all of the hearings, the decision and the order of the above matter, that said hearings and decision were made at public meetings of the Board and that we made the forgoing decision with the undersigned members voting by role call vote:

Mark Walsh

Annette McLean

Jan Adamczyk

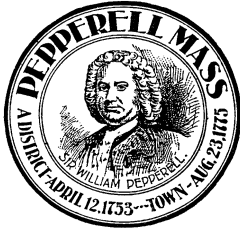
_____ N/A
Sean McCaffery

_____ N/A
Carl Schilling

ASSISTANT TO THE BOARD OF APPEALS:

A copy of this Decision was transmitted to the Town Clerk on: April 4, 2016

Cheryl Lutcza, Assistant to the Board of Appeals



Town of Pepperell
BOARD OF APPEALS
One Main Street
Pepperell, Massachusetts 01463

NOTICE OF DECISION: Variance

ZBA File No: 2016-02

Notice is hereby given that a Zoning Board of Appeals **Variance** has been **granted**:

To: Chris and Julia Boyce

For: Variance

Property Located at: 2 Deerfield Drive, Pepperell, MA, as shown on Assessor's Map 11 as Parcel 182-0

Owned by: Chris and Julia Boyce

This Decision of the Zoning Board of Appeals is on file with the papers on this matter in the office of the Town Clerk: **Certified this 4th day of April 2016:**

Zoning Board of Appeals: _____
Cheryl Lutcza, ZBA Assistant

RIGHT TO APPEAL:

Appeals to this Decision are to the Court pursuant to the M.G.L., Chapter 40A, Section 17, and must be taken within twenty (20) days of the filing of this Decision with the Town Clerk.

TOWN CLERK CERTIFICATION:

I certify no appeal has been received within twenty (20) days of the filing of this notice in my office, or that if an appeal has been filed it has been dismissed or denied.

Lisa Ferolito, Town Clerk

NOTICE TO APPLICANT:

Having received certification from the Town Clerk, it shall be the responsibility of the Applicant to have recorded both this NOTICE OF DECISION and the VARIANCE DECISION at the South Middlesex Registry of Deeds and indexed in the grantor index under the name of the owner of the record or recorded and noted on the owner's certificate of title. Fee for recording shall be paid by the owner or applicant. NO BUILDING PERMITS or CERTIFICATES OF OCCUPANCY shall be issued by the Building Inspector until notice of attestation by the Registry of Deed is made to the Town Clerk by filing a copy of this notice with the recording date and document number noted.

ATTESTATION:

Received and entered with the Registry of Deeds in the County of Middlesex, South

ATTEST: _____

Register of Deeds

Town of Pepperell ZBA Decision No: 2016-02 – 2 Deerfield Drive: Variance