

Middlesex South Registry of Deeds  
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**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

 ORIGINAL



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

RECEIVED  
FEB 17 2022  
TOWN OF PEPPERELL  
TOWN CLERK

**NOTICE OF DECISION**

ZBA File No: 2021-07

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

To: John Hills

For: Variance of 31.7 feet from the required 50-foot front yard setback.

Property Located at: 11 Sartelle Street, Pepperell, MA, as shown on Assessor's Tax Map 14 as Parcel 119-0

Owned by: John J. Hills

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 the 17<sup>th</sup> day of February, 2022:**

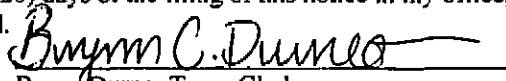
Zoning Board of Appeals:   
Cheryl Lutcza, ZBA Assistant

**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.

  
Brynn Durno, 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 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 Deeds 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

Deed Ref: Book 44451,  
Page 308

Town of Pepperell ZBA Decision No: 2021-07-Variance: 11 Sartelle Street



*Town of Pepperell*  
**BOARD OF APPEALS**  
One Main Street  
Pepperell, Massachusetts 01463  
(978) 650-1623

**DECISION**

**APPLICATION #:** 2021-07

**APPLICANT:** John J. Hills

**OWNER OF PROPERTY:** John J. Hills

**LOCATION OF PROPERTY:** 11 Sartelle Street, Pepperell, MA

**RELIEF REQUESTED:** Variance

**DECISION OF BOARD:** Granted

**DATE OF DECISION:** February 2, 2022

**STATEMENT OF FACTS:**

Application submitted to Town Clerk: November 17, 2021

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

Application copied to the Assessor's Office, Board of Health, Communications Director, Conservation Commission, DPW Business Manager, DPW Director/Town Engineer, Fire Department, Highway Department, Historical Commission, Inspector of Buildings, Planning Board, Police Department, Sewer Department, Town Counsel, Treasurer/Collector, and Water Department: November 18, 2021

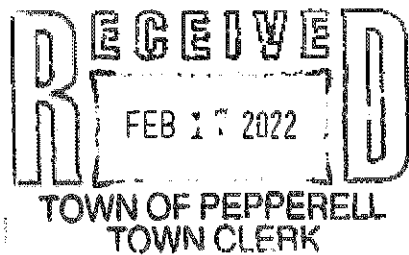
Dates of published Notice of Public Hearing: December 24, 2021, and December 31, 2021, issues of the "Nashoba Valley Voice".

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 December 21, 2021.

Dates of Remote Public Hearings: January 12, 2022, and February 2, 2022

Board of Appeals Members present at the remote Public Hearing of January 12, 2022:  
Annette McLean, Alan Leao, Jr., and Heather Hampson. Also present, Cheryl Lutcza (Assistant to Zoning Board of Appeals).

Board of Appeals Members present at the remote Public Continuation Hearing of February 2, 2022:  
Annette McLean, Alan Leao, Jr., and Heather Hampson. Also present, Cheryl Lutcza (Assistant to Zoning Board of Appeals).



**Town of Pepperell ZBA Decision No: 2021-07-Variance: 11 Sartelle Street**

**CONTENTS OF TOTAL APPLICATION:**

Exhibit A:	Certified List of Abutters – November 17, 2021
Exhibit B:	New Application Memo to ZBA Members – November 18, 2021
Exhibit C:	New Application Memo to Town Boards/Departments – November 18, 2021
Exhibit D:	Response from Fire Department – November 18, 2021
Exhibit E:	Response from DPW/Paul Brinkman – November 23, 2021
Exhibit F:	Response from Planning Department – November 22, 2021
Exhibit G:	Response from Conservation Commission – November 23, 2021
Exhibit H:	Response from Highway Department – November 18, 2021
Exhibit I:	Response from Assessor's Office – November 18, 2021
Exhibit J:	Response from Treasurer/Collector's Office – November 18, 2021
Exhibit K:	Supplemental Information for Variance Application from Dillis & Roy: December 2, 2021
Exhibit L:	Notice of Public Hearing for January 12, 2022
Exhibit M:	Hearing and Fees Letter to Applicant – December 28, 2021
Exhibit N:	Legal Notice Copy from Nashoba Valley Voice – December 24, 2021
Exhibit O:	Response from Board of Health – December 28, 2021
Exhibit P:	Responses Memo to ZBA from C. Lutcza – January 4, 2022
Exhibit Q:	Legal Notice Copy from Nashoba Valley Voice – December 31, 2021
Exhibit R:	Letter of Opposition from James/Melissa Tessmann & Lillian Gaudette – January 5, 2022
Exhibit S:	Letter of Opposition from Robert & Marcia Estes - January 5, 2022
Exhibit T:	Hearing Attendance Sheet - January 12, 2022
Exhibit U:	Extension Agreement (to Continue Hearing to February 2, 2022) – January 18, 2022
Exhibit V:	Meeting Agenda for January 12, 2022
Exhibit W:	Meeting Agenda for February 2, 2022
Exhibit X:	Supplemental Information for Variance Application Submitted by Dillis and Roy – January 21, 2022
Exhibit Y:	Hearing Attendance Sheet – February 2, 2022

**FEES:**

Applicant paid to the Town of Pepperell (1) filing fees of \$115.00; (2) a postage fee in the amount of \$23.86, to notify Parties in Interest of the Public Hearing and Decision; and (3) a fee to the "Nashoba Valley Voice" in the amount of \$295.68, for the legal advertising of the public notices.

**STATEMENT OF CASE:**

The Board of Appeals conducted a remote public hearing on January 12, 2022, regarding an application submitted by John J. Hills, requesting Zoning Board of Appeals VARIANCES, under Sections 9222 and 4140 of the Town of Pepperell Zoning Bylaw, which if granted, would allow a 17.2-foot rear yard Variance from the required 60 foot setback; a 15-foot right side yard Variance from the required 25-foot setback, and a 24-foot front yard Variance from the required 50-foot setback. Subject property is located at 11 Sartelle Street, Pepperell, MA, as shown on Assessor's Map 14 as Parcel 119-0. A remote public hearing was held on this matter on January 12, 2022, at 7:20P.M. The remote public hearing was held via GoToMeeting.

**Public Hearing of January 12, 2022:**

Applicant, John Hills was present at the remote public hearing. Also present, was Greg Roy of Dillis and Roy Civil Design Group, Inc., Lunenburg, MA. Both Mr. Hills and Mr. Roy addressed the Board regarding the relief being requested. There were abutters present at the remote public hearing. There were members of the public present at the remote public hearing. After presentations and discussions, the Applicant requested that the Board continue the public hearing to February 2, 2022, at 7:00p.m., with an Extension Agreement to be executed to extend all dates and

deadlines associated with the application to February 2, 2022. Motion was made, and all Board Members concurred, to continue the public hearing to February 2, 2022, at 7:00p.m. Details of the remote public hearing are available in the Zoning Board of Appeals Meeting Minutes of January 12, 2022. This remote public hearing was recorded for future broadcast by Pepperell Community Media, Inc.

**Public Continuation Hearing of February 2, 2022:**

Applicant, John Hills was present at the remote public continuation hearing. Also present, was the Applicant's engineer, Greg Roy of Dillis and Roy Civil Design Group, Inc., Lunenburg, MA. Both Mr. Hills and Mr. Roy addressed the Board regarding the relief being requested. There were abutters present at the remote public hearing. There were not members of the public present at the remote public hearing. Motion was made, and all Board Members concurred, to grant the requested relief, a Variance.

Details of the remote public continuation hearing are available in the Zoning Board of Appeals Meeting Minutes of February 2, 2022. This remote public hearing was recorded for future broadcast by Pepperell Community Media, Inc.

**FINDINGS:**

1. The subject property is located at 11 Sartelle Street, Pepperell, MA, as shown on Assessor's Map 14 as Parcel 119-0.
2. The property is located in the Town Residence District.
3. Abutters were present at the remote public hearings of January 12, 2022, and February 2, 2022.
4. Members of the public were not present at the remote public hearings of January 12, 2022, and February 2, 2022.
5. Subject property is to be serviced by municipal water (Per DPW Office).
6. Subject property is to be serviced by municipal sewer (Per DPW Office).
7. At the public hearing on January 12, 2022, the Applicant requested to continue the public hearing to February 2, 2022, at 7:00p.m. The Applicant subsequently submitted a signed document, entitled "Agreement to Extend/Waive Application Dates and Deadlines", dated January 18, 2022 (Exhibit U), to extend all dates and deadlines associated with the Application. Said Extension Agreement was filed with the Town Clerk on January 20, 2022.
8. At the February 2, 2022, remote public continuation hearing, the Applicant requested to formally withdraw the side and rear variances in the initial request submitted to the Board. The Applicant also requested to change the amount of relief requested from a variance of 24-feet from the required 50-foot front yard setback to a variance of 31.7 feet from the required 50-foot front yard setback (per his "Supplemental Information for Variance Application" document dated January 21, 2022 (Exhibit X) filed with the Town Clerk on January 27, 2022). Motion was made and all Board Members voted in favor of accepting the request.

9. The Applicant's engineer, Greg Roy of Dillis and Roy Civil Design Group, submitted a document entitled "Supplemental Information for Variance Application", dated January 21, 2022, (Exhibit X) which included the following revised plans:
  - "Marketing Plans Sartelle Street, Pepperell, MA Sheet A 1.0", dated January 18, 2022 (JAD Design Group, Inc. Amherst NH)
  - "Main Floor Plan, Job 2607\_3, Sheet A-3.1, dated January 18, 2022 (JAD Design Group Inc., Amherst, NH)
  - Upper Floor Plan Job 2607\_3, Sheet A-4.1, dated January 18, 2022 (JAD Design Group, Inc., Amherst NH)
  - Proposed Plot Plan 11 Sartelle Street. File No. 4180, dated January 20, 2022 (Dillis & Roy Civil Design Group)
10. After discussion on the proposed variance request, the Board found that due to the constraints of the subject property: small lot size; odd shape of the lot reducing the area in which the applicant can build a structure; wetland soils; the existing/deteriorating mobile home would be replaced with a new/ modern home which would be a betterment to the neighborhood, a 31.7-foot front yard Variance from the required 50-foot setback, 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 Pepperell Zoning-Bylaw. Per section 9222 of the Town of Pepperell Zoning Bylaw, the requested relief will not be detrimental to the public good, will not nullify or substantially derogate from the intent or purpose of the Town of Pepperell Zoning-Bylaw, and owing to the circumstances of the land, 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 Bylaw would involve substantial hardship, financial or otherwise, to the petitioner, 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 structure shall be in substantial conformance with the revised plans submitted on January 20, 2022. The location of the structure shall be in substantial conformance of the proposed location shown on the plan entitled, "Proposed Plot Plan, 11 Sartelle Street, Pepperell, MA", File 4180, prepared by Dillis & Roy Civil Design Group, and dated January 20, 2022.
2. The variance granted is limited to the specific structure described in the revised request submitted on January 21, 2022 (Exhibit X).
3. The applicant is required to obtain approval for the project from the Conservation Commission. Any dimensional modifications that result from the hearing with the Conservation Commission will require a variance modification from the Zoning Board of Appeals.
4. Any future modifications may be subject to a new variance.
5. The Applicants shall apply for and obtain all necessary permits, and all construction shall be in accordance with all applicable state and local codes and regulations.
6. The granting of this dimensional variance under the Pepperell Zoning By-law does not relieve the Applicants of the responsibility of complying with all other state and local statutes and regulations affecting the premises.

**CONCLUSION:**

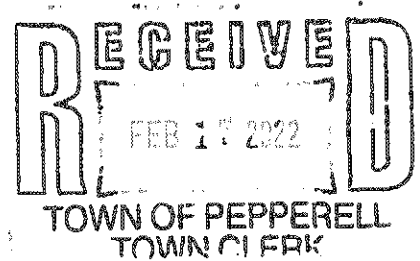
The Board of Appeals finds that the requested relief a 31.7-foot Variance from the required 50-foot front yard setback, will not be detrimental to the public good, will not nullify or substantially derogate from the intent or purpose of the Town of Pepperell Zoning-Bylaw, and owing to the circumstances of the land, 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 Bylaw would involve substantial hardship, financial or otherwise, to the petitioner, 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, the Board of Appeals find that the requested relief may granted for the subject property located at 11 Sartelle Street, Pepperell, MA, as shown on Assessor's Map 14 as Parcel 119-0.

**DECISION:**

Based on the foregoing findings and conclusions, the Board grants the requested relief, a 31.7-foot front yard Variance from the required 50-foot setback. The subject property is located at 11 Sartelle Street, Pepperell, MA, as shown on Assessor's Map 114 as Parcel 119-0.

**So decided this 2<sup>nd</sup> day of February 2022 by roll call vote as listed:**

Annette McLean:	Aye
Alan Leao, Jr.:	Aye
Heather Hampson:	Aye



**RECORD OF VOTE**

The members of the Board of Appeals of the Town of Pepperell, attended and participated in all of the hearings, the Decision and the order of the above matter. Said hearings and Decision were made at public meetings of the Board and the foregoing Decision was made with the members voting by roll call vote.

The Zoning Board of Appeals, by a vote of three in favor to none opposed, granted this Variance subject to the above-stated terms and authorized the Chair of the Board to sign on its behalf.

A handwritten signature in cursive, appearing to read "Annette McLean", written over a horizontal line.

Annette McLean, Chair of the Board of Appeals

A copy of this Decision was transmitted to the Town Clerk on: February 17, 2022

A handwritten signature in cursive, appearing to read "Cheryl Lutzka", written over a horizontal line.

Cheryl Lutzka, Assistant to the Board of Appeals