
THE LAW OFFICES OF BELLO & MORTON, LLC

184 Main Street Wareham, Massachusetts 02571 · 508-681-2334

April 22, 2023

Zoning Board of Appeals of Wareham

Memorial Town Hall

54 Marion Road

Wareham, Ma 02571

Re: 14-23 Variance – 12 Highland Road, Andrew Topoulos - Petition Attorney Letter of Support

Dear Board:

I represent Mr. and Mrs. Topoulos in the above petition for Special Permit located at their residence at 12 Highland Road, Wareham, MA. This property has been home for the Topoulos family for about 23 years. As long time Wareham residents investing in the community Andrew and Tricia are now at the point where they are ready to improve the 1926 garage on their property which is in disrepair and a hazard. Their proposal includes razing the old structure and building a new safe and appealing garage with the exact same dimensions. Notably the current garage is on the neighbors' property approximately 18 inches, the new building will be shifted to rectify this encroachment and put on the Topoulos' property.

The Lot is located in the Wareham Village 2 Zoning District (WV-2).

Ruling of the Building Commissioner:

Mr. Turner denied the building application for construction of the new detached garage on the site under the following section: **Article 6: Density and Dimensional Regulations, 625 Accessory buildings, Side setback.**

Legal Analysis:

We are seeking a Variance under 1470 of the Wareham Zoning ByLaw:

“A Variance may be granted when factors relating to soil conditions, lot shape, or topography of such land creates and impracticability or limits the location or positioning of a new structure or addition on a site or location that previously conformed to zoning requirements. An applicant must demonstrate that a literal enforcement of the Bylaw would involve substantial hardship, financial or otherwise to the petitioner or appellant and that the 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 ordinance or by-law.

1. **Unique nature of the Lot:** This lot has a unique topography most notably in the grade of the lot. The lot itself has a 7 foot grade change from 30- 23 feet from the front to the back. The garage is pre-existing non-conforming structure and encroaching on the neighbors lot. The homeowners want to rectify this title issue but to move it 10 feet would not be feasible as there is a stone wall in the middle of the lot where the change of grade is the largest. The shape of the lot itself is unique in that it is long and narrow; meeting the side setbacks is challenging.

2. **Hardship to the Petitioner if Literal Enforcement of the By-Laws:** If the Board requires literal enforcement of the by-laws my client would need to see if this is even economically feasible for them. The relocating of the garage to the 10-foot side setback would involve the removal of the existing stone wall, re-grading of the back yard to rectify the grading issue, as well as a new plot plan. In addition, the driveway would need to be redone to flow over towards the garage that is now directly behind the property as the pavement currently is placed right in front of the garage in a straight line.

They have already expended quite a bit of funds to have these plans drawn up, the lot surveyed, and this petition for variance. The hardship frankly may be too much to have them rectify the encroachment issue and they would just leave the property as is. Without the reconstruction of the garage the clients would not enjoy use of the garage as it stands unsafe. As we know, being in the northeast, garages are crucial as the winters are harsh here. Lastly, their hardship would continue with the title of their property if they ever wanted to sell, the new owners would be continually dealing with the encroachment. In conclusion their hardship would certainly be financial but also loss of enjoyment of their property without a functioning garage.

3. **Desired relief should be granted without Substantial Detriment to the public good:**

The Topolous' property lies within the Wareham Village 2 district where many historic and well-kept homes are here in Wareham. The lots are smaller and denser. This razing and reconstructing of the garage shall have no negative impact on the public. In fact, the opposite would be true. Attached to this letter are several letters in support of this petition. To quote the letter from Ms. Sara Ross the direct abutter: "This *project will add value to*

my property and prevent any future concerns for encroachment should either party choose to sell our home. I hope the board will support this project."

4. **No Derogation from the intent or purpose of such Ordinance or by-law:** The purpose of the By-Law is clearly laid out in Article 1 Section 130 of which includes "to preserve and increase amenities by the promulgation of regulations to fulfill said objectives". Keeping in harmony with our town's bylaws and the new garage would be of value to neighborhood and provide for the removing of an encroachment to two residents title. All things considered, allowing this Variance would not be detrimental to the neighborhood and certainly would not derogate from the intent of the Zoning By Law.

Therefore, we would ask the Board to grant the Variance as presented.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Julian A. Morton', with a long horizontal flourish extending to the right.

By: Julian A. Morton, Esq., Attorney for the Applicants

Date: April 19, 2023

To: Zoning Board of Appeals, Wareham MA.

From: Sara Ross

Subject: Application - Topoulos 12 Highland Rd.

I am providing this letter in support of my neighbors Andrew and Patricia Topoulos request to the zoning board to rebuild their detached garage on 12 Highland Road. I reside at 10 Highland Road next door to the Topoulos property. The garage in question is on our shared property line. The garage was there when I purchased my home, and I understand it has been in place since the 1920s. I support their project as it will move the current garage that is in very poor condition and ensure the new construction is fully contained on their property. This project will add value to my property and prevent any future concerns for encroachment should either party chose to sell our homes. I hope that the board will support this project.

Sincerely,

A handwritten signature in black ink that reads "Sara E. Ross". The signature is written in a cursive, flowing style.

Sara Ross

Date: April 19, 2023

To: Zoning Board of Appeals, Wareham MA.

From: Christine Bugg

Subject: Application - Topoulos 12 Highland Rd.

I am providing this letter in support of my neighbors Andrew and Patricia Topoulos request to the zoning board to rebuild their detached garage on 12 Highland Road. I am a direct abutter of their property. Removing the current garage that is in disrepair and replace it with an updated construction will add value to my home and theirs. I reside at 11 Highland Road, directly across the street from the Topoulos property. I hope the board will support this project.

Sincerely,

Christine Bugg

A handwritten signature in black ink, appearing to read "Christine Bugg", with a large, stylized "C" and "B".

Date: April 19, 2023

To: Zoning Board of Appeals, Wareham MA.

From: William Brosseau

Subject: Application - Topoulos 12 Highland Rd.

I am providing this letter in support of my neighbors Andrew and Patricia Topoulos request to the zoning board to rebuild their detached garage on 12 Highland Road. I am a direct abutter of their property. I reside at 14 Highland Road, next door the Topoulos property. Their proposal to rebuild the detached garage would add value to my property by removing the dilapidated garage and replace it with a new construction. I hope the board will approve this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'William Brosseau', with a long, sweeping horizontal stroke at the end.

William Brosseau