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December 26, 2020

Wareham Zoning Board of Appeals  
Wareham Town Hall  
54 Marion Road  
Wareham, MA 02571

RE: 41 Riverside Drive  
Revision of Appeal of James and Cheryl Enos for a Special Permit  
Under Section 1355 of the Wareham Zoning By-law

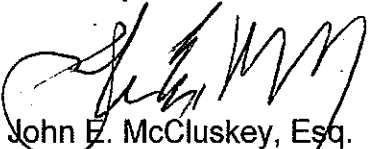
Dear Board of Appeals:

Kindly accept this Revised Memorandum to the Special Permit application of James and Cheryl Enos previously submitted. Mr. and Mrs. Enos propose to raze their home at 41 Riverside Drive and to construct a new one story single family home in its place.

It is my understanding that the requisite number of the revised plans have been previously submitted and downloaded.

We look forward to presenting this matter to the Board of Appeals.

Sincerely,



John E. McCluskey, Esq.  
Counsel for the Applicants

Wareham Zoning Board Application for a Special Permit  
Petitioners: James and Cheryl Enos  
Property: 41 Riverside Drive, Wareham, MA  
Parcel ID MAP 11  
Plot: 265

MEMORANDUM IN SUPPORT OF  
PETITION FOR A SPECIAL PERMIT

REVISED DUE TO REVISION OF PLANS

This is a revised memorandum which is being submitted due to the Petitioners having significantly reduced the size of their proposed new home in an effort to adhere as closely as possible to the Wareham Zoning By-laws as to lot coverage and dimensional standards.

The Petitioners, James and Cheryl Enos are the owners of 41 Riverside Drive in Wareham. This property has been in the family for many years. The Petitioners would like to make this their permanent home. To do so they propose to raze the existing prior non-conforming one story home and build a new one story home on what is essentially the same, but reduced, footprint. They believe that the proposed changes to the home are in keeping with Section 1355 of the Wareham Zoning By-law as the new home is in harmony with the surrounding homes and would not be detrimental to the neighborhood in any manner.

Section 1355 of the Wareham By-law allow for an applicant to be granted a Special Permit to demolish a prior non-conforming home and replace it with a new home providing that four conditions are met. Those conditions are as follows:

- 1. The replacement structure will not be substantially more detrimental to the neighborhood than the existing structure.***

The existing home is a one story single family home that is surrounded by other two story single family homes. The structure is prior non-conforming as, due to the small and irregularly shaped lot, it does not meet the coverage and setback standards of the By-law. The existing home stands on a footprint of 1,610 S.F. while the new home in the same location will stand on a footprint of only 1,360 S.F. That would be a reduction in the footprint of 250 S.F. The height of the home would be approximately 18' high from the top of foundation. No more than 25' high from lowest point of grade which is significantly less than the height of the other surrounding single family homes.

Due to the irregular lot shape and size, it is virtually impossible to meet the setback standards. However, while still maintaining "livability", the front and side yard setbacks will not be increased. In one area on the easterly side of the existing home, the side yard setback will be improved as well as the right front section of home is an almost 2' improvement.

The Petitioners have received an Order of Conditions from the Wareham Conservation Commission that addresses all coastal storm management issues. Also, roof drainage on the property will be retained onsite in underground chambers.

**2. *The replacement of the structure will not cause or contribute to any undue nuisance, hazard or congestion in the neighborhood, zoning district or town.***

The home will remain a single family residence. As the plans show, the existing driveway on the southerly side of the home will be removed and there will be only one driveway to the southeast side of the home. As previously noted, all roof drainage will now be retained onsite.

The new home will meet all building regulations for properties in a coastal zone. This will result in an improvement overall of the conditions of the existing home which could not meet current building standards.

The existing home lies within the flood zone and could not be built as it presently stands. The new home will be 2.5 to 3.0 **above** the flood zone and in full compliance with the coastal zone standards.

**3. *The replacement structure will not intensify any of the following existing non-conformities: building coverage, impervious coverage or setback encroachment.***

The building coverage is proposed to be 250 S.F less than the existing coverage on the lot. This is a significant improvement to the existing non-conformity of the lot coverage.

The initial house plans submitted to the Board called for a new two story three bedroom home. The floor area ratio of the two story home was proposed at 45% which is above the 25% ratio as provided in the By-law.

The plans have been significantly modified as the new proposal is to build a single family home with one master bedroom and one small guest room. The new plan essentially meets the By-law FAR standard as it reveals a 25.85% floor ratio coverage. The difference in what is allowed and what is proposed is "di minimis".

The impervious coverage is also less than what is existing on the lot. Additionally, the removal of the driveway on the southerly side of the home will increase green space.

The new size and design of the home improves on the existing setback encroachments as the footprint has been reduced by 250 S.F.

**4. *The replacement structure will not create any new non-conformities.***

There will be no new nonconformities as the FAR ratio has been reduced from the existing home of 30.60% to 25.85%. Also, the setback encroachments have been reduced by the decrease in floor area. The proposed home is well below the height standards.

Although this is not a variance case, if it were, the size and shape of the lot would most likely meet the hardship standard of the By-law and MGL ch. 40A.

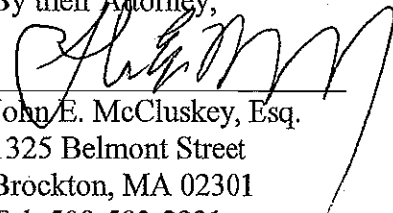
### SPECIAL PERMIT STANDARDS

M.G.L. ch. 40A Sec. 9 allows for the Board of Appeals to grant a special permit when it finds that the desired use is ***“in harmony with the general purpose and intent of the ordinance ..., and shall be subject to general or specific provisions set forth therein; and that such permits may also impose conditions, safeguards and limitations on the time or use”***. The standards for a special permit to raze an existing structure and construct a new home under the Wareham By-law are consistent with state law. As the structure will not be ***“substantially more detrimental to the neighborhood”***, a Special Permit is the appropriate relief in the present case.

### CONCLUSION

As the Petitioners are proposing to construct a single family home that will improve upon the conditions in existence with the existing home and the neighborhood, the standards meet all of the Special Permit requirements and should be granted.

Respectfully Submitted,  
James and Cheryl Enos  
By their Attorney,



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