VARIANCE APPLICATION

TOWN OF WAREHAM ZONING BOARD OF APPEALS

9 Prospect Avenue Onset, MA

March 10, 2021

PREPARED FOR:

Rachel Solem 5 Bacon Street Wellesley, MA 02482



PREPARED BY:



2854 Cranberry Highway East Wareham, Massachusetts 02538 Ph. 508-273-0377 – Fax 508-273-0377



JC ENGINEERING, Inc. Civil & Environmental Engineering

2854 Cranberry Highway East Wareham, Massachusetts 02538 Ph. 508-273-0377 – Fax 508-273-0367

March 10, 2021

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

RE: Variance Application for 9 Prospect Avenue, Onset, MA

Dear Board Members,

On behalf of the applicant, Rachel Solem, please find enclosed a Variance Application accompanied by supporting design drawing entitled "Proposed Site Plan located at 9 Prospect Avenue, Onset, MA" revised through March 10, 2021 (Plan) for your review and approval. This property is shown as Lots 70 and 80 on Assessor's Map 1. The existing property contains a single family home with a detached accessory structure. The applicant would like to reconstruct the existing accessory structure, while expanding the footprint, and increase the size of the existing deck. In accordance with the determination issued by the Building Commissioner, a Variance under Article 13, Section 1361, would be required for this proposed project.

Zoning Requirements

The property is located in the Onset Village Residential (OV-2) Zoning District. Below is a list of the various zoning requirements that classifies the lot and structures as being pre-existing non-conforming.

- In accordance with Article 6, Table 622, a minimum lot area of <u>10,000</u> square feet is required in this district, with a maximum building coverage equal to <u>20%</u> of the lot area. The current lot contains <u>7,500</u> square feet and the building coverage is <u>34.5%</u>.
- In accordance with Article 6, Table 625, minimum setback requirements for accessory structures on lots 10,000 square feet and under are <u>5 feet</u> from the side property line and <u>5 feet</u> from the rear lot line. The current side setback of the accessory structure is <u>3.7 feet</u>.
- In accordance with Article 6, Table 628 (Village Districts), the maximum Floor Area Ratio (FAR) is <u>20%</u> on lots sizes ranging between 5,001 and 10,000 square feet. The current floor are ration <u>35.5%</u>.

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Variance Request

As part of this Variance Application, the applicant would like to raze the existing nonconforming accessory structure and re-construct a new conforming accessory structure including a new concrete foundation that will be in compliance with the property line setback requirements. The accessory structure will also be increased in total height from 12.2 feet to 17.83 feet, which is less than the maximum allowed height of 20 feet. The client also wants to increase the width of the accessory structure by 2 feet. This represents an increase in FAR on the property by 49 square feet (0.7% increase). The proposed footprint will also be relocated by 1.4 feet away from the property line to meet the minimum lot setback requirements.

Also, the applicant would like to square off the existing wood deck by adding approximately 90 square feet to the footprint. As can be seen on the Plan, the location of the proposed deck expansion is in conformance with the zoning setback requirements. The expansion of the accessory structure and deck will increase the total building coverage by 139 square feet (1.9% increase). Due to the fact that the existing FAR and building coverage are above the maximum allowed on this property, an increase in the FAR and Building Coverage will be an intensification of an existing non-conformity.

As outlined in Section 1470 of the Wareham Zoning Bylaws, the applicant shall demonstrate that the literal enforcement of the by-law would involve substantial hardship and that desirable relief may be granted without substantial detriment to the public good and without substantial derogating from the intent of the bylaw.

• A Variance may be granted when factors relating to soil conditions, shape, or topography of such land creates an impracticality or limits the location or positioning of a new structure or addition, and that a literal enforcement of the By-law would involve a substantial hardship, financial or otherwise, to the petitioner.

A literal enforcement of the Wareham Zoning Bylaws would create a hardship to the property owners. Due to the non-conforming size of the property, this prevents the improvement of any building area on this property without seeking a permit from the Zoning Board of Appeals. The hardship that exists is due to the non-conforming size of this lot.

• A Variance 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 bylaw

The proposed expansion of the residential accessory structure and deck will not be more detrimental to the public good and will not derogate from the intent of the bylaw. This can be proven due to the fact that the building coverage and floor area ratio, as proposed, is similar to the building coverage and floor area ratios of nearby properties in the neighborhood. The use of the accessory structure is residential, and is to remain residential. There are currently two-bedrooms and one bathroom within the structure.

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> The increase in floor area is being proposed to allow for additional living space to be added, while maintaining the bedrooms and bathroom. Therefore, the proposed increases will be in harmony with the other dwellings in the neighborhood. Also, the reconstruction of the accessory structure will be beneficial to the direct abutter as it will be in conformance with the zoning setback requirements. The proposed footprint of the accessory structure will be relocated further from the side property line, therefore, eliminating an existing setback non-conformity of the accessory structure.

For the reasons stated above, we would appreciate your favorable vote on a Variance for the construction of an addition, which is under the purview of this board.

Respectfully yours,

Bradley Bur

Bradley M. Bertolo, EIT, CSE Project Engineer

Cc: Rachel Solem

9 PROSPECT AVENUE, ONSET, MA











TOWN OF WAREHAM

ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- Complete this form.
- Complete information packets. (Directions attached)
- Submit application form and packet to Town Clerk for signature.
- Submit application form and packet to Town Collector for signature.
- Submit completed form, packets, and appropriate fees** to the Zoning Board of Appeals secretary.

**Permits may be issued only after a public hearing. There is a filing fee of <u>\$300.00</u> per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of <u>\$750.00</u> per lot, per application for all commercial applications. In the case of a multi-family development, the fee is <u>\$300.00</u> plus an additional <u>\$50.00</u> for every unit over two (2). Please make check payable to the Town of Wareham.

**A check to cover two (2) legal advertisements for the public hearing should be made payable to <u>Wareham Week</u> in the amount of <u>\$100.00</u>.

"The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.90 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 9 Pro	spect Avenue	LOT	: 70 & 80 MAP: 1
ZONING DISTRICT: Onset	Village Residential (OV-2)		
USE REQUESTED: Single Fa	amily Residential		
OWNER OF LAND & BUIL	DING: Rachel Solem		TEL.#
ADDRESS OF OWNER: 51	Bacon Street, Wellesley, MA	02482	
PERSON(S) WHO WILL U	TILIZE PERMIT: Sam	е	
ADDRESS: Same		1 1	
DATE: 3/10/2021	_SIGNATURE: bu	dley De	itili Agent
This application was received on	the date stamped here:)	1 1
Town Clerk:		_Date:	
Tax Collector:		_ Date:	
Planning/Zoning Dept.:		_ Date:	
Application fee paid:	Check #:		Receipt:
Advertising fee paid:	Check #		Receipt:
Abutters fee paid:	Check #		Receipt:

TOWN OF WAREHAM

Check Applicable: X Variance Special Permit Site Plan Appeal
Date stamped in: Date decision is due
Applicant's Name: Rachel Solem
Applicant's Address: _5 Bacon Street, Wellesley, MA 02482
Telephone Number:
Cell Phone Number:
Email Address: rsolem@me.com
Address of Property/Project: 9 Prospect Avenue
Landowner's Name:Rachel Solem
Owner's Address: _ 5 Bacon Street, Wellesley, MA 02482
Telephone Number:
Contact Person: Bradley Bertolo, JC Engineering Inc Telephone Number: 508-273-0377
Map 1 Lot 70 & 80 Zone OV-2
Date Approved Date Denied
Comments:

APPLICANT/CONTRACTOR/REPRESENATIVE INFORMATION SHEET

TOWN of WAREHAM



Massachusetts

BFILE COPY

BUILDING DEPARTMENT

David L Riquinha Director of Inspectional Services

Rachael Solem C/o, Bradley Bertolo, J.C. Engineering 2854 Cranberry Highway East Wareham, MA 02538

RE: 9 Prospect Ave.

February 4, 2021

Map # 1, Lot # 70

I have reviewed your application to raze and reconstruct your pre-existing non-conforming accessory structure. The proposed structure is not in compliance with current zoning regulations and must be denied at this time.

You are proposing to demolish the existing garage and replace it with a new accessory structure that appears to be for residential sleeping purposes. The proposed structure intensifies several pre-existing non-conformities such as: floor area ratio, building coverage, and impervious coverage. The height is increasing from 12.2' to 17.83' where 20' would be permitted if it were a compliant structure. You are intensifying the structure within the non-conforming footprint, and aggravating several existing non-conformities. This is an increase to the non-conforming nature of the structure and requires a <u>Variance</u> from the Zoning Board of Appeals.

The submitted permit application, which includes a site plan by "J.C. Engineering" labeled "JCE 5540" comprised of one page dated January 19, 2021; and architectural drawings by GS Design Group Inc. comprised of five pages and dated October 29, 2020 is being denied under the following sections of the Wareham Zoning By-law:

- Article 6, Table 625, Accessory Buildings; Accessory buildings on lots less than 10,000 square feet are required to be 5' from side lot lines. Your proposal does not comply with the regulation, and requires a <u>Variance</u> from the Zoning Board of Appeals.
- Article 13, Section 1361, Alteration or Extension of Other Structures; "Any proposed change that adds a new non-conformity or aggravates and/or intensifies an existing nonconformity will require a <u>Variance</u> from the Zoning Board of Appeals."

The subject dwelling is located in the OV-2 zoning district.

Respectfully, $\overline{\mathcal{N}}^{-1}$ David Riquinha

Building Commissioner Zoning Enforcement Officer

It is the owners' responsibility to check with other departments, i.e. Health, and conservation, etc. to ensure full compliance.

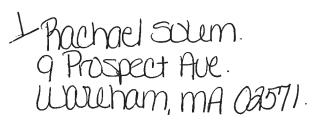
In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above uoted relief within thirty (30) days of receipt of this letter.

Property Location: 9 PROSPE	CT AVE		MAP ID: 1//7	70/ /		Bldg Name:			State	e Use: 1010
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Bk: 46954 Pg: 260 Page: 1 of 3 Recorded: 05/23/2016 11:13 AM ATTEST: John R. Buckley, Jr. Register Plymouth County Registry of Deeds

DEED

HARRY H. OHANNESIAN, being unmarried, and RONDA OHANNESIAN n/k/a RONDA GOLDBERG, being unmarried, having an address of P.O. Box 301, Hopedale, Massachusetts 01747 ("Grantor")

in consideration of SIX HUNDRED SIXTY THOUSAND AND 00/100 (\$660,000.00) DOLLARS

grant to RACHAEL SOLEM, individually, having an address of 5 Bacon Street, Wellesley, Massachusetts 02482 ("Grantee")

WITH QUITCLAIM COVENANTS

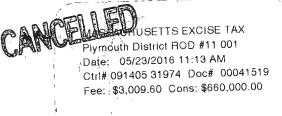
The land with the buildings thereon situated in that part of Wareham known as Onset, being Lots 70 and 80 on a plan of land of the Onset Bay Grove Association in Plan Book 1, Page 58, being further bounded and described as follows:

SOUTHEASTERLY	by Prospect Avenue, as shown on said plan, fifty (50) feet;
SOUTHWESTERLY	by Lots 81 and 69, as shown on said plan, one hundred fifty
	(150) feet;
NORTHWESTERLY	by Pleasant Avenue, as shown on said plan, fifty (50) feet;
NORTHEASTERLY	by Lots 71 and 79, as shown on said plan, one hundred fifty
	(150) feet.

Being all of said measurements, more or less, howsoever the same may be bounded and described.

The Grantors hereby release any and all rights they may have in and to an estate of homestead in regard to the above captioned property and herein warrant there are no other persons with any claim to homestead in the property.

For title, see Quitclaim Deed dated August 31, 2004 and recorded with the Plymouth County Registry of Deeds in Book 28991, Page 2.



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Executed as a sealed instrument this 12th day of May, 2016.

SIGNED IN THE PRESENCE OF:

WITNE#S:

1 MM Mlalau

RONDA OHANNESIAN n/k/a RONDA GOLDBERG

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF WORCESTER

x n/x/a Ronda Goldberg

On this 12th day of May, 2016, before me, the undersigned notary public, personally appeared RONDA OHANNESIAN, proved to me through satisfactory identification which was personally known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.

NOTARY PUBLIC: LAURA A. MANN-MY COMMISSION EXPIRES: 06/26/2020

man man LAURA A. MANN NOTARY PUBLIC Commonwealth of Massachusetts My Commission Expires June 26, 2020 and the second second

Signed as a sealed instrument this **20**th day of May, 2016.

SIGNED IN THE PRESENCE OF: WITNES

HARRY H. OHANNESIAN

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF WORCESTER

On this 20^{μ} day of May, 2016, before me, the undersigned notary public, personally appeared HARRY H. OHANNESIAN, proved to me through satisfactory identification, which was personally known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.



NOTARY PUBLIC: LAURA A. MANN MY COMMISSION EXPIRES: 06/26/2020

			-		_
OWNER RACHAEL SOLEM	AEL SOLEM				
MAP & LOT	OWNER	CO-OWNER	STREET ADDRESS	TOWN	STATE
1-47	BOUDREAU JULIE	BOUDREAU DAVID	11S SPRING LN	CANTON	MA
1-62	SARAIVA MICHAEL T JR		PO BOX 1388	ONSET	MA
1-48/A	JENNINGS JUDITH A TRUSTEE	C/O RESENDES	PO BOX 535	ONSET	MA
1-48/B	WILCUTTS WALTER A	WILCUTTS REBECCA L	18 W CENTRAL AVE	ONSET	MA
1-49/A	MCDADE ALEXANDRA LEIGH HUNTER		16 W CENTRAL AVE	ONSET	MA
1-61	MASON JULIE A	MASON RICHARD	501 BAY ST	TAUNTON	MA
1-49/B	HEROUX ROBERT	GALLAGHER-HEROUX SUSAN	56 GUERNSEY AVE	TAUNTON	MA
1-60	MORRISON GRACE C		PO BOX 1040	ONSET	MA
1-68	CODERRE ROBERT A		PO BOX 1024	ONSET	MA
1-S8/B	OUELLETTE RAYMOND	OUELLETTE GLORIA	275 SMITH ST	ATTLEBORO	MA
1-69	GERALD ELIZABETH A		PO BOX 1605	ONSET	MA
1-82/B	GOMES ANTONIO TRUSTEE OF SOUTH	C/O JOE GOMES	24 SHANGRI-LA BLVD	E WAREHAM	MA
1-58/A	WILDER KELLIE L		PO BOX 372	ONSET	MA
1-81	HAYES ROBERT W	FORD DONALD L JR	PO BOX S38	HANSON	MA
1-71	PERRY ARNE C & ELIZABETH P TRS	PERRY ELIZABETH P & ARNE C TRS	PO BOX 776	ONSET	MA
1-70	SOLEM RACHAEL		5 BACON ST	WELLESLEY	MA
1-72	GONCALVES JOSE M & NATALIA S TR	PEARL ST 2005 REALTY TRUST	19 LOWELL RD	NO READING	MA
1-79	THOMS JOSEPHINE B TRUSTEE	C/O ADELE BEAN	3092 SUSSEX PL	RIVA	MD
1-73	ARENBERG NAOMI	BAUM PETER C/O PETER BAUM	PO BOX 1255	ONSET	MA
1-93	SCHAFER JOHN C	SCHAFER KATHRYN OKEEFE	9720 FALLOW RUN	AUSTIN	X
1-87	SMITH WILLIAM JAMES TRUSTEE		PO BOX 1363	ONSET	MA
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RACHAEL SULEIVI					

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