
***THE LAW OFFICES OF BELLO &
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November 17, 2020

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

***Re: Attorney Opinion Letter in Support of the Petition for 26-20 Kevin Nickerson –Variance –
3 Oakhill Road – Map 39 Lot T-5***

Dear Board:

I represent Mr. Nickerson for the above application to construct a two-story dwelling on Oakhill Road in Wareham. My client is resident of Wareham purchased their residence in 2019. Mr. Nickerson has been summering in Wareham for many years and has fallen in love with the beauty of our coastal town and all it is has to offer.

Mr. Nickerson's lot itself is in R-30 Zoning District currently with a maximum Floor Area Ratio (FAR) of 1500 square feet. His proposed build is 2,304 square feet approximately 804 square feet over the allowable FAR.

My client is proposing to make his home which currently is one level with one bathroom and two bedrooms, and an extremely small kitchen and living room, two levels to make the property work for him and his family. The purpose of the second floor will be for additional living quarters for his family and an additional bathroom.

The project does not meet those standards for maximum FAR my client submits relief in the form of a Special Permit/Variance.

The Statutory requirements are met:

We are seeking a Special Permit/Variance as Maximum Lot FAR for Small Lots per of the Wareham Zoning Bylaw Resident Table R-30: I submit my analysis of reviewing this property under that criteria for Variance as laid out in the Towns Bylaws.

1. **Unique nature of the Lot:** This lot is unique is it hugs the coast of the Wareham River on one side and Oak Hill Road on the other (See Site Plan). In order to have more livable space and not seek further variances from setbacks, he is looking to build a second level and go up. In addition, both direct abutters to my client are in support of this project as well and see not issue with the project.
2. **Hardship to the Petitioner if Literal Enforcement of the By-Laws:** If my client is denied the Variance he is seeking then, he will be without additional bedroom and the second bathroom as currently there is only one on the property. As discussed, my client lives here full time and needs a space that works for him and his family, including three children and grandchildren.

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

The property sits on the hill overlooking Wareham River. My client has taken into account the integrity of the neighborhood. I would like to draw the Boards attention to one of the abutters 9 Oakhill Road (please see the attached pictures):

In 2017, the owner, Mr. Spinale sought to raise the single level ranch to a two story and was granted relief by the Wareham Zoning Board for a Special Permit. His lot size is approximately 5,600 square feet and FAR is approximately 2,016 square feet. In our project we have a bigger lot size of 5,906 square feet and looking for an approval of FAR of 2,304 square feet. The ratio of the 9 Oakhill property was 36% and on our project 39%. Therefore, we would ask the Board to take this precedent into account.

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”. The approval of this project would provide a full time Wareham resident with a property that works for him and his family. Keeping in harmony with our town’s bylaws and the nature of the builders design and vision, this project would be of value to Wareham.

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. I’d like to end with quote from one of the abutters letter:

Respectfully submitted,

By: *Jillian A. Morton, Esq.*



9 Oak Hill After renovation and Special Permit (back view)



9 Oak Hill After renovation and Special Permit (front view)

