

THE COMMONWEALTH OF MASSACHUSETTS

Town of Wareham

BOARD OF APPEALS

Petition No. : 64-21
Book: 0321 Page: 0036
Date: 12/8/2021

Certificate of Granting a Variance
(General Laws Chapter 40A, Section 11)

The Board of Appeals of the Town of Wareham hereby certifies that a Variance has been granted:

To: Scott Green

Address: 9A Melvin Street

City or Town: Wareham, MA 01880

Affecting the rights of the owner with respect to land or buildings at 17 Murphy Street, Wareham, MA 02571 Assessor's Map 50B Lot 1-41


The Board of Appeals certifies that the decision attached hereto is a true and correct copy of its decision to grant a Variance and that copies of said decision, and of all plans referred to in the decision, have been filed with the ZBA, Conservation Commission, and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no variance, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering. A copy of the registered decision shall be returned to the Board of Appeals as proof of filing.

Any person aggrieved by this decision may appeal to the Superior Court of Land Court as in Section 17 of Chapter 40A, M.G.L. by filing a NOTICE OF ACTION AND COMPLAINT within twenty (20) days of the date of filing of this decision.

I hereby certify that 20 days have elapsed after the decision was filed in the office of the Town Clerk of Wareham and no appeal has been filed in accordance with Section 17, Chapter 40 A of the Massachusetts General Laws.

Nichelle Bissonette
Town Clerk



Chairman

Clerk

*** Electronic Recording ***

Doc#: 00828621
Bk: 00000 Pg: 0 Cert: 64236
Rec Date: 02/23/2022 10:11 AM
Also Noted On:
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds

NOTICE OF DECISION OF THE WAREHAM ZONING BOARD OF APPEALS

Petition: 64-21

Applicant: Scott Green

Owner: Bella Ferreira

Owner Address: P.O. Box 488, Taunton, MA 02718

Subject Property 17 Murphy Street, Wareham, MA 02571

Subject Property Parcel ID: Map 1-41, Lot 50B

Date of Public Hearing: December 8, 2021 & January 12, 2021

Date of Notice: January 25, 2021

PETITIONER: Scott Green if 9A Melvin Street, Wakefield, MA 01880

OWNER of RECORD: Bella Ferreira, PO Box 488, Taunton, MA 02780

DATE OF HEARING: December 8, 2021 and January 12, 2021

The Zoning Board of Appeals voted (5-0-0) to grant a Variance to build a new construction single family home at 17 Murphy Street, Wareham MA (Assessors Map 50B, Lot 1-41). This requires relief from the land area requirement from 30,000 square feet as the lot's size is approximately 20,500 square feet. The Building Commissioner noted in a September 29, 2021, Denial Letter that the property lot size was conforming prior to June 21, 1971, whereas the minimum lot area requirement was 10,000 square feet but changed by amendment to 30,000 square feet. The petitioner sought relief to the Board of Appeals accordingly.

Variance from the Minimum Lot Area in Zoning District R-30:

As for the statutory requirements, this lot is unique in that it is situated on the waterfront and the lot is situated surrounding protected wetlands. The owner had two structures on the property in the nineties which were destroyed during Hurricane Bob. The Wareham Zoning Code provides in Section 1470: a Variance may be granted if the "location that previously conformed to zoning requirements." The Board heard evidence in the form of testimony and affidavit by Attorney Medeiros the grandson of the original owners of the property and now current owner of why there was delay on building on the property after it was destroyed.

The Board found that the literal enforcement of the bylaw would make the property unbuildable and create financial hardship for the petitioner and the owner. The property has approximately 20,500 square feet; most of the lots over there in Swifts Beach are half of the size of that.

The granting of this Variance keeps with the nature of the neighborhood and other waterfront homes in this area. Most of these homes were similar to this 1950s cottage and were later developed for owners who were looking to have full time residence down in this majestic area.

Lastly, granting the Petitioner the relief being requests in no way derogates from the intent of the zoning by-laws as the lot is zoned for single family residences. The build keeps with the nature of the neighborhood while respecting the protection afforded to the waterways through conservation and no touch zones.

All things considered the Board found this Variance would not be detrimental to the neighborhood and certainly would not derogate from the intent of the Zoning by Law. The Board heard evidence from the owner, the developer of the project, and their legal counsel, and entered into the record letters from abutters in support of the project.

Further, the granting of this Variance pursuant to MGL Chapter 40A Chapter 10 is subject to the following conditions:

Conditions:

1. The new single-family dwelling is to be constructed per the Site Plan dated 9.9.2021, titled "Site Plan", prepared by JC Engineering of 2854 Cranberry Hwy, East Wareham, MA 02538.
2. Upon completion, an "As Built" plan is to be submitted to the Building Department with a copy provided to the Board of Appeals.
3. Any relief not expressly granted hereunder is hereby denied.
4. For this decision to become effective, a copy of said decision and notice thereof must be filed at the Plymouth County Registry of Deeds and must bear the certification of the Town Clerk that twenty (20) days have elapsed and no appeals have been filed, or that if such appeal has been filed, that it has been dismissed or denied. A certified copy of said recording must be thereafter filed with the Board of Appeals.
5. If substantial use or construction permitted by this Variance has not commenced within one year from the date of which a copy of this decision is filed with the Town Clerk, excluding the amount of time required for an appeal period to expire and the amount of time required to pursue and await the determination of any such appeal, then this relief shall expire in so far as the foregoing statement is modified by Chapter 195 of the Acts of 1984. Any person exercising rights under a duly appealed Special Permit does so at the risk that a court may reverse the permit and any construction performed under the permit may be ordered undone.
6. Any person aggrieved by this decision of the Zoning Board of Appeals may file an appeal pursuant to the provisions of M.G.L. Chapter 40A, section 17 within twenty (20) days of the filing of this decision in the office of the Town Clerk. If no appeal is taken within the allotted time, the Clerk will so certify.
7. If the applicant wishes to modify the approved Record Plans, it shall submit proposed modifications in accordance with the provisions of this paragraph. Where such modification is deemed substantial, the same standards and procedures applicable to an original application for approval shall apply to such modification and a public hearing shall be required by the ZBA; provided, however, that the ZBA may determine that a proposed modification is insubstantial and approve the same without the need for any further ZBA approval.
8. A pool shall not be constructed on the subject property.
9. The height of the new single-family dwelling shall remain 35 feet.

VOTE: {5-0-0} By the Wareham Zoning Board of Appeals.

TOWN OF WARRENHAM ABUTERS							
MAP 50/A-1, LOT 41, 300'							
OWNER BELLA FERRERA							
MAP B. LOT	OWNER	CO-OWNER	STREET ADDRESS	TOWN	STATE	ZIP CODE	
50/A-250	DISTASO NICHOLAS	DISTASO JUDY ANN TRUSTEE	30 WINDFIELD ST	NEWWOOD	MA	02062	
50/A-149	ZUTAUT CHARLIE M		18 GRANT ST	PLYMOUTH	MA	02360	
50/A-128	MENDEZ ANTHONY		48 CHARTER ST	BOSTON	MA	02118	
50/A-A2	HALBO GORDON B	WALSHJURD PATRICIA A	5064 BARNINGTON CIRCLE	SARASOTA	FL	34234	
50/A-23/B	PETRUCCI ANTHONY J	PETRUCCI KARA	PO BOX 242	& EASTON	MA	02375	
50/A-25/A	MULLEN PATRICIA J	MULLEN JOHN J LIFE ESTATE	PO BOX 395	WARRENHAM	MA	02371	
50/B-1-41	FERRERA BELLA		PO BOX 488	TAUNTON	MA	02786	
50/A-25	BERRY PATRICIA E TRUSTEE	C/O LINCOLN BERRY	395 MARLBOROUGH ST #3	BOSTON	MA	02115	
50/A-120	FRAGA MARIA O		15 GREEN RD	STOUGHTON	MA	02072	
50/A-26/B	COTTELLESSO RALPH M		12 WILTON ST	HYDE PARK	MA	02136	
50/A-26/A	BICHENHOLZ ELIOTT	CHRIS MAHRE ANN	11 CAMBERY DR	FRANKLIN	MA	02038	
50/A-2	VENDETTI JOSEPH L JR	VENDETTI CYNTHIA A	20 WANKINDLEMAN AVE	WARRENHAM	MA	02571	
50/A-4	DEPEDRO DENISE R TRUSTEE OF	18 WANKIND AVENUE REALTY TR	23 SPRUCE POND RD	FRANKLIN	MA	02038	
		C/O DIANE PADULA					
50/A-1	ARSENALTI MARGARET E TRUSTEE		2 MADONNE ST	WORCESTER	MA	01602	
50/B-1-35	DENTON SCOTT D	DENTON TRACEY L	PO BOX 18	DNSET	MA	02558	
50/B-1-27	HASCH JEAN TRUSTEE	LOREA LAND TRUST	20 TOWER TERR	WARRENHAM	MA	02571	
		C/O NAZIH ELKALASSI					
50/B-1-67	BENNETT LYMAN E	MUNGER CHARLES F	9 BENNETT WAY	TOWNSEND	MA	01469	
		C/O NICHOLAS BENNETT					
CERTIFIED ABUTERS AS THEY							
APPEAR ON OUR TAX ROLLS							
AS OF 10/6/2021							
<i>By: [Signature]</i> <i>[Signature]</i>							
ASSESSOR'S OFFICE							
REQUESTED BY							
JILLIAN A MCRTON, ESQ							
508 295-2532							
JAN@MORTONVILLE.COM							

E-recording Report of Recorded Documents

Itemized Fee View

Prepared for: Morton Law LLC (MATGCQ)

Cost center: MATGCQ

Report generated: 02/23/2022 08:30 AM MST

Documents Recorded

NAME	TYPE	PG	ENTRY	RECORD DATE	AMT	SF	TOTAL PROCESSED
Plymouth Land Court, MA							
Feb 23, 2022							
Ferreira Var							
Document 1	<i>Simple Registered Land Documents with 1 Certificate Number</i>	5	E 828621	02/23/2022 10:11 AM EST	No fee Recording Fee	0.00 106.00	Submission Fee 10.00 10.00 0.00 106.00
					106.00	10.00	116.00
					106.00	10.00	116.00
Totals for Plymouth Land Court, MA					106.00	10.00	116.00

Recording Fee Totals

COUNTY	RECORD DATE	AMT	SF	TOTAL
Plymouth Land Court, MA	02/23/2022	106.00	10.00	116.00
Totals for Plymouth Land Court, MA		106.00	10.00	116.00
Total of All Recording Fees		106.00	10.00	116.00

Document Count: 1

Package Count: 1

Questions Contact:

Simplifile Support 800.460.5657, option 3

5072 North 300 West

Provo, UT 84604