



**TOWN OF WRENTHAM
ZONING BOARD OF APPEALS**

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**Decision Case #2020-06 (V)
Date of Decision: May 27, 2020**

**Registry of Deeds Book No. 20350 & Page No. 70, Zoning District of Parcel R-43
Residential 43 (R-43) zoning district, Wrentham Assessor's Map O-08, Block 7, Lot 15**

Decision of the Board of Appeals on the application of Joseph Vozzella (applicant/owner) for property at **325 Thurston Street, Wrentham, MA.**

Background

By the application dated February 28, 2020 and filed in the Town Clerk's office on March 16, 2020, a Variance is requested to construct a single family dwelling on a lot with 137.37 feet of frontage, where 150 feet of frontage is required, at 325 Thurston Street, Wrentham, MA.

The hearing was advertised on May 12, 2020 and May 19, 2020 in *The Sun Chronicle*. All parties of interest on the official abutters' list obtained from the board of assessors, were mailed a notice of the public hearing on May 15, 2020. A public hearing notice was posted at Town Hall May 8, 2020.

Public Hearing – May 27, 2020 (Virtual via Zoom)

Board Members seated for this hearing were, Keith Langer (Chairman), William Casbarra (Vice-Chair), Walter Pelrine (Clerk/Secretary), Shawn Gough (Member), John Redman (Member), William Burns (Associate Member), and Jennifer Savickis (Associate Member).

Exhibits/Submittals

1. Application dated 2/28/20; 11 pages
2. Narrative dated 5/12/20; 1 page
3. Plan of Land dated 12/16/86; 1 page
4. Deed dated 2/3/86; 1 page
5. Board of Health construction permit dated 1/27/20; 2 pages
6. House plans dated 9/11/18; 12 pages
7. Topographic Site Plan dated 8/25/19; 1 page
8. Septic plan dated 12/17/19; 1 page
9. Deed dated 12/17/03; 2 pages

Deliberations/Findings

Mr. Langer confirmed that there was no conflict of interest between the applicant and Board. Mr. Vozzella was present for the virtual meeting. He stated that he is seeking to build a single

family house on the property and that the application is for a frontage variance, which would not be detrimental to the neighborhood. Mr. Langer noted that the variance is for a 137.37 foot frontage variance where 150 feet is required and referenced the house location in relation to the abutters. Mr. Vozzella noted that the new house would be typical 3,000 sq.ft. colonial style. Mr. Vozzella confirmed a recent Board of Health approval for new septic and leach field.

Mr. Casbarra inquired as to when the lot was deeded as an actual lot. Mr. Vozzella confirmed the deed was 1985-1986 and noted that the lot has always been deemed "unbuildable" in terms of the frontage. Mr. Casbarra referenced that the property was deeded after the Town rezoned it to R-43 zoning district. Mr. Vozzella stated that the property was previously part of a larger lot, and the previous owner sold approximately 72 acres to the Town of Wrentham Water Dept. for the well system.

Mr. Casbarra referenced the criteria for granting a variance as soil conditions, which is fine. The lot shape and that there is no outstanding lot shape conditions. Lastly topography which is fairly level and not an issue. Mr. Casbarra requested that the applicant explain which of the conditions would apply to the request for frontage variance. Mr. Vozzella stated his opinion that the lot shape with it narrowing to the front creating less than required frontage is cause for the variance. Mr. Casbarra inquired if the applicant attempted to purchase land from an abutter in order to gain the required frontage. Mr. Vozzella stated that he did speak with abutter and Town, but because the state had given money to the Town for land purchase, a new purchase would have to go through State legislature for Town land sale.

Mr. Langer inquired, that at the time of sale to the Town, why the small parcel was not given proper frontage. Mr. Vozzella noted that the frontage was always what it currently is, but that the property opened wider in the back, where the front piece remained and the back was sold to the Town. No further questions from the Board or audience.

Mr. Casbarra moved to close the public hearing. Mr. Gough as second. Roll call vote, Aye-5; Nay-0, and Abstentions-0, (5-0-0), motion passed. Discussion followed.

Mr. Pelrine expressed his opinion that the shape of the lot would constitute a hardship due to the lot history and difficulty in purchasing a new piece for frontage conformity. Mr. Casbarra inquired, for discussion, if the frontage shortage is criteria to grant the variance as substantial hardship to the applicant or detriment to the neighborhood. Mr. Langer pointed that the frontage shortage is on the side that is owned by the Town and did not feel it would be a detriment to the Town. Mr. Casbarra noted that the variance request does not meet the requirement for Board review. Ms. Savickis understood point for lot shape itself as not unusual, but that the lot shape itself is what is going to cause the hardship, which was preexisting. Mr. Gough agreed that the shape creates the hardship.

Mr. Langer referred to an Appeals Court decision from Gloucester, undercutting the three traditional criteria for a variance, which reduced a variance to little more than a glorified special permit so long as there was minimal impact upon the abutting neighborhood. Mr. Langer noted that this case is similar with minimal impact to the neighborhood.

Mr. Pelrine inquired and it was confirmed that there has been no response from abutters or DPW regarding the variance. Mr. Burns stated that he would prefer to get the recommendation of the Water Dept. prior to a decision. Ms. Savickis noted that a request for comments was sent and there were no responses. She felt the applicant should not have to wait for further feedback. No further comments from the Board or audience.

Roll call vote, Aye-4; Nay-1 (Mr. Redman), and Abstentions-0, (4-1-0), motion passed.

Mr. Pelrine made the following motions:

- Moved that the Board find that the circumstances relating to lot shape is what causes the hardship. Mr. Gough as second. Roll call vote, Aye-4; Nay-1 (Mr. Redman), and Abstentions-0, (4-1-0), motion passed.
- Moved that the Board find that the circumstances of the application do not generally affect the zoning district. Mr. Gough as second. Roll call vote, Aye-4; Nay-1 (Mr. Redman), and Abstentions-0, (4-1-0), motion passed.
- Moved that the Board find that a literal enforcement would cause substantial hardship to the applicant. Mr. Casbarra as second. Roll call vote, Aye-4; Nay-1 (Mr. Redman), and Abstentions-0, (4-1-0), motion passed.
- Moved that the Board find that desirable relief may be granted without substantial detriment to the public good. Mr. Casbarra as second. Roll call vote, Aye-4; Nay-1 (Mr. Redman), and Abstentions-0, (4-1-0), motion passed.
- Moved that the Board find that desirable relief may be granted without nullifying or substantially derogating from the land use and environmental objectives of the Town Zoning By-Laws. Mr. Casbarra as second. Roll call vote, Aye-4; Nay-1 (Mr. Redman), and Abstentions-0, (4-1-0), motion passed.
- Moved, that for reasons just listed, the Board find that desired relief may be granted without nullifying or substantially derogating from the land use and environmental objectives of the Town of Wrentham Zoning By-Laws by granting a frontage variance of 12.63 feet for the property at 325 Thurston Street. Mr. Casbarra as second. Roll call vote, Aye-4; Nay-1 (Mr. Redman), and Abstentions-0, (4-1-0), motion passed.

Decision

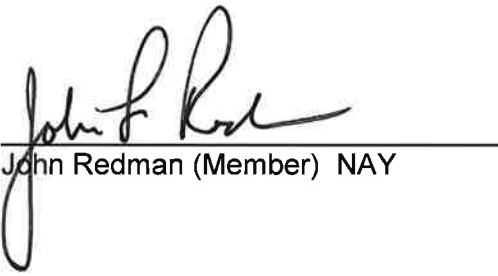
Based upon the findings discussed and the review of the Wrentham Zoning By-Laws, the Board of Appeals voted **four (4) in favor, one (1) opposed and zero (0) abstained** to approve this application for a Variance. This Variance is granted in accordance with the Wrentham Zoning By-Law Section 11 and Massachusetts General Law Chapter 40A, Section 10.


Keith Langer (Chairman) AYE


William Casbarra (Vice-Chair) AYE


Walter Pelrine (Clerk/Secretary) AYE

Shawn Gough (Member) AYE


John Redman (Member) NAY

Date 6/3/20

Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, and Section 17. Notice of such Appeal shall be filed within twenty days of this decision in the office of the Town Clerk.

A Variance shall not take effect until the Town Clerk has certified pursuant to Massachusetts General Laws, Chapter 40A, Section 11 that within 20 days of filing the Decision no Appeal has been filed, or if an Appeal has been filed that it has been dismissed or denied.

In accordance with Wrentham Zoning By-law Section 11, this Variance shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for extension of said period of validity shall be considered a modification of this Variance, and shall be submitted in writing to the Zoning Board of Appeals.

Any modifications to the record plan submitted may only be made upon authorization from the Zoning Board of Appeals. The Board may grant the change(s) provided that the modification is not substantially different than the plan presented in the record, is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Zoning Board of Appeals and may require a public hearing if the Board finds that the proposed change(s) are significant in nature and of public concern, and substantially alter the plans and information used in making this Decision.

Wrentham Zoning Board of Appeals

Certificate of Granting of Special Permit

The Board of Appeals of the Town of Wrentham hereby certifies that a Special Permit has been granted

To: Joseph Vozzella (applicant/owner)
Address: 3841 Washington Street
City or Town: Roslindate, MA 02131

Affecting the rights of the owner(s) with respect to land or structures at **325 Thurston Street**, per the submitted plans and conditions contained in this Decision.

And the said Board of Appeals further certifies that the Decision attached hereto is a true and correct copy of its decision granting said Variance, and that copies of said Decision, and of all plans referred to in the Decision, have been filed with the Zoning Board 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 special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the Decision bearing the certification of the town clerk that 20 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 fee for such recording or registering shall be paid by the owner or applicant.



Keith Langer (Chairman)



Walter Pelrine (Clerk/Secretary)