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**TOWN OF WRENTHAM
ZONING BOARD OF APPEALS
WRENTHAM TOWN HALL**

**79 SOUTH STREET
WRENTHAM, MASSACHUSETTS 02093
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**DECISION
ZBA CASE #2020-21(V)**

Location of Property:
132 Wampum Street
Wrentham, MA 02093

Assessor's Reference:
Assessor's Map: L-03
Block-Lot: 3-1

Applicant:
John L. & Kathleen Darling
132 Wampum Street
Wrentham, MA 02093

Owner of Record:
John L. & Kathleen Darling
132 Wampum Street
Wrentham, MA 02093

DECISION of the Zoning Board of Appeals (hereinafter the "Board") on the petition of John L. & Kathleen Darling (hereinafter the "Applicant/Owner") for a VARIANCE under Section 10 of the Wrentham Zoning Bylaw (hereinafter "ZBL") and M.G.L. Ch. 40A, Sec. 10, to allow for a reduced side setback of 18.3 feet where 30 feet is required at 132 Wampum Street, Wrentham, Massachusetts which is located in the Residential 87 (R-87) Zoning District and shown on Wrentham Assessor's Map L-03, Block-Lot 3-1 (hereinafter the "Site"). The Site is owned by John L. & Kathleen Darling by deed recorded in the Norfolk Registry of Deeds Book 30166, Page 262.

BACKGROUND

The above referenced application for a VARIANCE was formally received on November 16, 2020. Notice of the public hearing and the subject matter thereof was published in the Sun Chronicle on November 24 and December 1, 2020, posted with the Town Clerk's office on November 19, 2020 and abutters were notified by First Class Mail. The public hearing on the application was opened on December 9, 2020. During the public hearing all those wishing to speak to the petition were heard. Following public input the hearing was closed on December 9, 2020.

The following members were present and voting at the hearing: Chairperson Casbarra, Vice Chairperson Walter Pelrine, Clerk John Redman, Members Shawn Gough and Keith Langer. At the hearing the Owners presented the application.

SUBMITTALS

The following items were submitted as Exhibits to the Board for its consideration of this Application:

**Pursuant to Governor Baker's March 12, 2020 Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the Town of Wrentham Zoning Board of Appeals conducted their public hearings via remote participation.*

1. Application packet dated 11/16/20; including the following:
 - Application for hearing dated 11/16/20; 2 pages
 - Certified Abutters List (Wrentham) dated 11/2/20; 3 pages
 - Certified Abutters List (Plainville) dated 11/12/20; 3 pages
2. Konosky Associates Inc. Architectural Plans dated 11/17/20; including the following:
 - Sheet A1 Elevations
 - Sheet A2 Foundation Plan
 - Sheet A3 First Floor Plan & Right Side Elevation
 - Sheet A4 Second Floor Plan
 - Charette Land Surveying Plot Plan dated 10/20/20
3. Quitclaim Deed and Plan of Land dated 7/9/12; 4 pages
4. Public Hearing Notice dated 11/19/20; 1 page
5. Dean Johnson, DPW Comments dated 11/20/20; 3 pages
6. Wade Saucier, Board of Health Agent Comments dated 11/23/20; 1 page
7. Letter of Intent; no date, received 11/30/20; 2 pages

FINDINGS

At their meeting of December 9, 2020 after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Wrentham Zoning Board of Appeals voted 5-0 (MOTION by Mr. Redman, SECOND by Mr. Pelrine) by Roll Call vote: Mr. Casbarra – Aye, Mr. Gough – Aye, Mr. Langer – Aye, Mr. Pelrine – Aye, Mr. Redman – Aye to make the following Findings:

1. That the Applicant seeks a VARIANCE in accordance with Section 10 of the ZBL and M.G.L. Ch. 40A, s.10, to allow for the construction of a 36' x 26' two story addition with a reduced right side yard setback of 18.3 feet where 30 feet is required in the R-87 zoning district (Exhibit #1, #2 & #7).
2. That the proposed addition is for a two story, 36' x 26' (1,872 s.f.) two car garage with first floor breezeway/mud room and second floor attic/storage space (Exhibit #2).
3. That during the public hearing the Board stated that the lot is predominantly located within Plainville and only a small amount in Wrentham (Exhibit #2).
4. That during the public hearing the Board and Applicant discussed the location of the addition and the site constraints. The Board further discussed that those site constraints were the following:
 - a. A majority of the lot falls within Plainville where the side yard setback is 15' and only a small amount; less than 300 s.f is within Wrentham where the side yard setback is 30',
 - b. Due to the soils including ledge on the Site, the only other location that the addition could be placed would be where the existing septic system is - left side of the house (Exhibit #7), which would be expensive to relocate elsewhere on the lot,
 - c. That there is a large ledge outcrop at the right rear of the house and the addition could not be placed at the back of the house either (Exhibit #7, Finding #4).
 - d. Furthermore, the addition cannot be located closer to the street due to the poor sight distances it would create endangering the neighbors and traffic flow.

5. That the Board received comments from the DPW Water Division Manager that the record water line information on this road is incomplete and that care should be taken when excavating the site (Exhibit #7).
6. That the Board received comments from the Board of Health Agent stating that there is no septic information for this parcel in their records (Exhibit #6). The Board further noted that the septic system is located in Plainville.
7. That with regard to Section 10.a. of the ZBL and M.G.L. Ch.40A, s.10, the literal enforcement of the provisions of this bylaw would involve a substantial hardship, financial or otherwise, to the Applicant as the addition cannot be located in another spot on the property due to the location of the septic system on the southern side of the house and a large ledge outcrop at the rear of the house (Exhibit #2 & #7, Finding #4).
8. That with regard to Section 10.b. of the ZBL and M.G.L. Ch.40A, s.10, there is hardship relating to soil conditions – there is a large ledge outcrop at the right rear of the house which is not evident in the neighboring properties nor elsewhere in this zoning district, shape – there is only a small portion of the lot that falls within Wrentham, which is unique to this parcel and not evident in the neighboring properties nor elsewhere in the zoning district (Exhibit #2 & #7, Finding #4).

CONDITIONS OF APPROVAL

At their meeting of December 9, 2020 after due consideration of the documents and plans submitted and the entire record of proceedings introduced and accepted in this matter, the Wrentham Zoning Board of Appeals voted 5-0 (MOTION by Mr. Redman, SECOND by Mr. Pelrine) by Roll Call vote: Mr. Casbarra – Aye, Mr. Gough – Aye, Mr. Langer – Aye, Mr. Pelrine – Aye, Mr. Redman – Aye to **GRANT** the **VARIANCE** for the Reduced Side Yard Setback of 18.3 feet where 30 feet is required subject to the following conditions:

1. This VARIANCE specifically authorizes a reduced side yard setback in Wrentham of 18.3' where 30' is required for an addition at 132 Wampum Street (Exhibit #2).
2. The work authorized by this Variance shall be solely for the purposes as presented by the Applicant and as amended by this Decision and shall run with the land and be binding upon the property owners and as well as their administrators, successors and assigns.
3. That there are no additional bedrooms proposed as part of this application.
4. The Applicant shall adhere to the Wrentham Zoning Bylaws and all other applicable provisions of municipal law and regulations, Federal and State statues and related regulations promulgated by Federal and State agencies.
5. The proposed construction and activity shall be conducted substantially in accordance with the Plan and Application as submitted or as amended by this Decision. Changes to the plan presented in this Application may be made only upon the authorization from the Zoning Board of Appeals provided that the change requested is not substantially different that then plan presented within the Exhibits of this Decision and is consistent with the intent and purpose of the Decision.

6. In accordance with Massachusetts General Law C.40A, Section 10, this Variance shall lapse after 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 an extension of said period of validity shall be considered a Modification of this Special Permit, and shall be submitted in writing to the Board prior to the expiration for review and approval.
7. This Variance shall not take effect until the Decision, bearing the Town Clerk's Certificate of No Appeal statement have been recorded at the NCRD within thirty (30) days following the expiration of the appeal period. Proof of recording of the Decision, including Deed Book and Page or Instrument Number shall be submitted to the Zoning Board of Appeals within thirty (30) days of recording.
8. By recording this Variance in the NCRD, the Applicant agrees to and accepts the Conditions set forth in this Variance Decision. Any inability, failure or refusal by the Applicant to comply with the Conditions of this Decision, when notified of failure of compliance, shall be grounds for immediate denial of building, construction or occupancy permits with respect to this project.
9. This approval shall not be construed as final approval of any on- or off-site improvements or work (such as water, sewer, drainage, or other utility installation) associated with this project and shown on the Plans. All applicable Federal, State and Local approvals/permits shall be obtained by the Applicant prior to the construction of any portion of the development or off-site improvements that warrant such approval/permits. All applicable requirements of the Wrentham Board of Health, Wrentham Public Works and all other utilities are hereby incorporated by reference as a requirement of this Decision.
10. The Applicant shall take all necessary measures to minimize dust from rising and blowing across the site and onto roads and adjacent properties. Any sediment or dirt tracked onto public ways shall be swept prior to the end of the construction day.
11. Hours of construction shall occur Monday through Friday between the hours of 7 a.m. and 5 p.m., and Saturdays from 8 a.m. to 5 p.m. There shall be no construction activity on Sundays or Federal and State Holidays.
12. All grading and construction shall in compliance with the approved Plans and the Conditions of this Variance, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any pollutants or siltation into waterways or resource areas from the site and its associated improvements during construction and after completion.

DECISION OF THE BOARD

On December 9, 2020, the Wrentham Zoning Board of Appeals voted 5-0 (MOTION by Mr. Redman, SECOND by Mr. Pelrine) by Roll Call vote: Mr. Casbarra – Aye, Mr. Gough – Aye, Mr. Langer – Aye, Mr. Pelrine – Aye, Mr. Redman – Aye to **APPROVE** the VARIANCE pursuant to Section 10 of the Wrentham Zoning Bylaws and M.G.L. Ch.40A, s.10 for a reduced side yard setback of 18.3 feet where 30 feet is required at 132 Wampum Street based on the information received at the public hearing and the aforementioned findings.



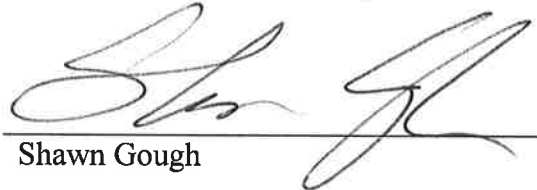
William Casbarra, Chairperson



Walter Pelrine, Vice Chairperson



John Redman, Clerk



Shawn Gough



Keith Langer

Not acting on this permit

William Burns

Not acting on this permit

Jennifer Savickis

- cc:
- Applicant/ Owner
 - DPW
 - Assessor
 - Board of Health
 - Building Commissioner