

The Commonwealth of Massachusetts

TOWN OF WILLIAMSBURG

Zoning Board of Appeals

DECISION

In the matter of: The application of Daniel A. Hathaway (the applicant) regarding the property at 2 Old Goshen Road, Williamsburg, Assessors Map C, Parcel 77, for a special permit as required by Section 12.0 e as it relates to Section 9.0a of the Zoning Bylaw of the Town of Williamsburg, requiring a setback of forty (40) feet from a public way.

Date of Application: December 9, 2019

Date of Public Hearing: January 13, 2020

Date of Decision: January 13, 2020

Vote by members of the Board:

Marcianna Caplis:	In Favor
Gerald Mann:	In Favor
Charles Dudek:	In Favor

Findings:

A. General Findings

The applicant intends to construct an 18' x 14' addition to an existing garage/workshop building at 2 Old Goshen Road. The building is currently non-conforming as to setback. The building is located in the Village Mixed Zone (VM) of the Town's zoning districts.

After some discussion, the members of the Board concluded that under the circumstances of this application, the issuance of a special permit is the appropriate action.

At the Public Hearing, one abutter was present and did not object to the applicant's planned expansion of the building.

B. Applicable Law and Decision Criteria:

Section 5.5 of the Zoning Bylaw of the Town of Williamsburg provides that the Zoning Board of Appeals may grant a Special Permit if it finds that the proposed structure and use will be reasonably compatible with the character and scale of other

uses permitted as of right in the same district. Section 12.0e of the Zoning bylaw allows for the issuance of a special permit extending or enlarging a nonconforming structure, or use, or land; if the Board finds that the existing nonconformity is not more detrimental to the neighborhood.

The Board is aware of the decision of the Massachusetts Court of Appeals in Gale, et al., v. Zoning Board of Appeals of Gloucester, et al., 80 Mass. App. Ct. 331 (2011). The Court held that variance relief is not required when a project increases nonconformity or creates a new nonconformity, if the Board determines that the project would not be more detrimental to the neighborhood.

C. Specific findings:

The ZBA is desirous of maintaining compliance with the Town's Zoning Bylaw.

Decision of the Board:

The applicant has met the criteria for a Special Permit as set forth in Sections 5.5 and 12.0e of the Zoning Bylaw. The use will be reasonably compatible with the character and scale of other uses permitted as of right in the same district. The addition to the existing building will have no detrimental effect on the neighborhood.

In consideration of the forgoing, the ZBA voted unanimously to grant the application for a special permit, subject to the following conditions.

Conditions to the Special Permit:

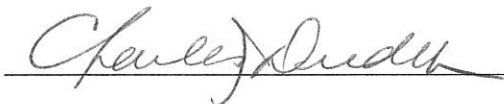
Any exterior lighting shall be shielded and downward directed to avoid intrusion onto the neighboring property;

The applicant shall comply with all other applicable provisions of the Zoning Bylaw.

Respectfully submitted this day of January 24, 2020

Received and recorded this *24th* day of *January*, 2020

Appeals from this finding, if any, shall be made pursuant to Chapter 40A, Section 17, of the Massachusetts General Laws,



Charles J. Dudek, Chair, on behalf of the Board
Of Appeals



Brenda Lessard, Willfamsburg Town Clerk