

The Commonwealth of Massachusetts

TOWN OF WILLIAMSBURG

Zoning Board of Appeals

DECISION

In the matter of: The application of Jason Harder (the applicant) regarding the property at 177 Main Street, Williamsburg, for a variance as required by Section 9.0a of the Zoning Bylaw of the Town of Williamsburg, requiring a side setback from the property line of fifteen feet.

Date of Application: January 28, 2018

Date of Public Hearing: March 21, 2018

Date of Decision: March 21, 2018

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 add an exterior wooden stairway from the ground level to the second level apartment of the building at 177 Main Street. The building contains two rental units. The building is located on an existing nonconforming lot. The building is located in the Village Mixed Zone (VM) of the Town's zoning districts. The applicant reported that he and the immediate abutter had discussed the existing property line and had agreed that they were uncertain of the exact location of the boundary line; but that it is likely about fifteen feet from the applicant's building.

After some discussion, the members of the Board concluded that under the circumstances of this application, variance relief is not required, and the issuance of a special permit is the appropriate action.

At the Public Hearing, one abutter was present and did not object; and another, the adjoining property owner, made a written submission approving of the granting of the applicant's request as long as the stairway did not project more than four feet from the applicant's 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 a 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 of the exterior stairway 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 stairway shall not protrude more than four feet from the exterior of the building;

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

Respectfully submitted this day of March 27, 2018

Received and recorded this 27th day of March, 2018

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, Williamsburg Town Clerk