

OFFICE OF THE BOARD OF APPEALS

Littleton, Massachusetts 01460

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Petitioner: MATTHEW FIELD, M & M REALTY TRUST

Case No: 864A

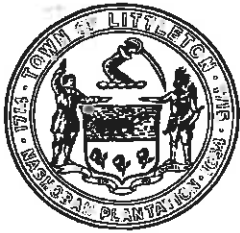
Date Filed: 6/23/2016

Property: 25 & 27 Dahlia Drive, Littleton, Ma.

The Littleton Board of Appeals conducted a public hearing on July 7, 2016 at 7:30 P.M. at the Shattuck Street Municipal Building, Shattuck Street, Littleton, for a Variance or Special Permit pursuant to Section 173-10B(1), 173-10B(2) and 173-31 for a dimensional variance to modify a previously granted variance allowing a change, extension and alteration of two pre-existing non-conforming structures at 25-27 Dahlia Drive, Littleton, Massachusetts. Notice of the hearing was given by publication in the Lowell Sun, a newspaper published in Lowell, and circulated in Littleton, on June 22, and June 29, 2016, and by mail to all abutters and parties in interest. Present and voting: Jeffrey Yates, Vice Chairman, Rod Stewart, Cheryl Hollinger, Members and Marc Saucier, Alternate.

The Petitioner, represented by counsel, Jennifer Platt, presented a plan showing 25 & 27 Dahlia Drive as two reduced sized lots requiring additional dimensional variances since the Board's prior decision. The Petitioner was before the Board on December 31, 2015, and was granted a Variance to replace two non-conforming structures on the Lot with two new structures. At the time, there was an understanding that the two structures were on one and lot and would continue that way. The Building Inspector recommended new construction as preferable to renovating the pre-existing obsolete structures. The Zoning Board granted the Petitioner a variance to replace the two non-conforming structures at this address, and granted a dimensional variance for the setback of the homes to the exterior lot lines. Both homes have been substantially completed and the applicant presented an existing conditions plan. Counsel Jennifer Platt presented to the Board that subsequent to the Board's earlier decision, due to the shape and topography of the lot, having a definite elevation change between the two structures, Petitioner and prospective buyers determined it advantageous to divide the property into two separate lots for ownership and control. The Petitioner obtained a Planning Board endorsement of a Plan under MGL Chapter 41, Section 81L to allow the lot to be divided into two lots, on each of which, a dwelling unit existed, which predated zoning. That plan was recorded at the Registry of Deeds. Counsel for the applicant also presented evidence that the Littleton Board of Health had approved the septic system serving the two lots as a "Shared Septic System" under Title 5 regulations. The attorney described that the public health and safety was better protected with a Shared Septic System than with a "condominium" form of ownership for septic maintenance and repair over time, since the Title 5 regulations for Shared systems have very restrictive requirements, requiring (a) a cash reserve for repair, regular maintenance and replace; (b) mandated triannual pumping and inspections; and (c) covenants granting the town access to the cash reserve for mandatory incomplete repairs.

No abutters appeared in opposition. The Building Inspector and Counsel comments were read into the record. Counsel opined that though MGL Chapter 41, Section 81L permits a lot line division, a zoning variance was still required for the dimensional variances. The Board deliberated the advantages and disadvantages of allowing the requested variances



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and reached agreement that the resulting variances, if granted, would not change the existing conditions: that is, the homes are complete, the distance to the exterior lot lines will not change from those initially permitted, and the granting of the additional variances will not alter the visual appearance of the two houses, or their distance from each other.

FINDINGS: The Board identified the current non-conforming features of the property and structures, and found that the request satisfied the requirements for the requested additional variances to the newly drawn lot line dividing the two structures, finding that the requested variance would not be substantially more detrimental to the neighborhood than the previously granted variances and the existing nonconforming buildings.

DECISION: The Board voted unanimously to GRANT additional Variances from the requirements of Section 173-10B(1) and 173-B(2) and 173-31, to allow the two houses on the two lots as shown on the Plan recorded at Middlesex South District Registry of Deeds in Plan Book 2016, Plan 302, with dimensional variances from the common lot line of 4.7 feet as to house number 27 Dahlia Drive, and of 4.9 feet as to house number 25 Dahlia Drive, substantially as shown on Plans drawn by Markey and Rubin, dated April 11, 2016, and submitted with the petition.

Appeals, if any, shall be made pursuant to G.L. 40A, Section 17 and shall be filed within twenty days after the date of filing of this Notice in the office of the Town Clerk.

Signed: _____

Alan Bell, Clerk

Dated: July 13, 2016
Book 66016, Page 237.

I hereby signify that twenty days have elapsed since the filing of the above decision by the Board of Appeals and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

True Copy

Attest: _____

Town Clerk

Littleton, Massachusetts