



OFFICE OF THE  
LITTLETON BOARD OF APPEALS  
LITTLETON, MASSACHUSETTS 01460

received  
L. Lord

11:45am June 1, 2011

Petitioner: James and Karen Tucker Barisano

Case No. 790A

Date Filed: April 1, 2011

The Littleton Board of Appeals conducted a public hearing on April 21, 2011, continued to May 19, 2011 at the Shattuck Street Municipal Building on the petition of James and Karen Tucker Barisano for a variance under the requirements of Section 173-27 to permit a garage structure within the setbacks required under the zoning bylaw at their home at 22 Deer Run Road, Littleton, Ma. Notice of the hearing was given by publication in the Littleton Independent, a newspaper published in Acton and circulated in Littleton on April 7, 2011 and April 14, 2011 and by mail to all abutters and parties in interest. Present and voting: Sherrill R. Gould, Chairman, William Farnsworth, John Cantino, Cheryl Cowley Hollinger, Members and Alan Bell, Alternate. Present and not voting were Member, Jeffrey Yates, and Alternate, Rod Stewart.

The petitioners, represented by Bartlett Harvey, Design Builder, are the owners of the property at 22 Deer Run Road, Littleton, Ma. The property is in the Forge Pond neighborhood where many of the lots are converted cottages and pre-existing non-conforming lot shapes. The applicant's lot is long and narrow with frontage less than 150' feet and area of about 1/3 acre. The house is set back closer to the pond and is situated such that a garage conforming to the zoning requirements could not be constructed on the lot. The lot is further restricted by the septic system location, steep grades and by driveway easements used by abutters on each side of the lot. There is only one small area on the 1/3 acre lot where a garage could be sited. The proposed location, however, would place the garage within 5' of the road frontage and within 7 feet of the side lot line. The Petitioners propose to construct a two story garage approximately 24' x 28' long to store personal vehicles and to photograph other automobiles used by Petitioner's business. There will also be boat and lawn equipment and furniture storage space to replace the tarp structure currently used for storage. The plans initially illustrated a larger, saltbox style garage with cupola, similar to a neighboring garage and closer to the lot lines, but petitioner scaled down the height and size of the initial plan and altered the location in an effort to accommodate the concerns of the Board and abutters.

The Petitioners demonstrated that there was a hardship owing to the size and shape of the lot, preventing them from constructing a garage, which satisfies the zoning bylaw, even if they submitted a smaller design, and that there would be no substantial derogation from the intent or purpose of the Zoning Bylaw.

One abutter appeared and voiced significant concerns about the size of the garage but primarily about the drainage runoff, which would be directed to their access driveway and the applicant agreed to conditions to address those concerns. The applicant also offered to improve the legal access rights for that neighbor, as a condition of the variance.

Board members voiced concern over the necessity for oversizing of the garage but several were satisfied that the size was justified by the applicant's presentation. The applicant marked the location of the garage for Board members to view on a site walk.

FINDINGS: The Board found that the Petitioner satisfied the requirements for a variance, owing to the size of the lot and the location of the existing improvements on the lot and the grades. The board found there would be no substantial detriment to the neighborhood and no substantial derogation from the intent of the By-Law.

DECISION: The Board voted 4 to 1 to GRANT a VARIANCE under Section 173-27 of the Littleton Zoning By-law to permit the construction of a 24' x 28' two story garage at 22 Deer Run Road, Littleton, to be not less than 7' from the side lot line and no less than 5' from the front lot line, with a roof overhang of not more than 1' substantially as shown on the plans submitted on May 10, 2011, on the following conditions:

1. There is to be a French drain constructed around the garage to provide for drainage to be directed away from the abutters westerly of the property.
2. There is to be a recorded driveway access agreement granted to the abutters, at the property at 18 Deer Run Road, Littleton, Ma., to protect and preserve their driveway access rights.
3. The cupola shown on the diagram is not to be constructed.
4. Applicant to put a stone façade over the cement facing the roadway.
5. Applicant to restore all disturbed areas in the existing driveway to a paved surface similar to its current condition.

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.

The Variance shall not take effect until a copy of the Decision bearing the certificate of the Town Clerk is recorded with the Middlesex District Registry of Deeds in accordance with the provisions of M.G.L. C. 40A, Section 11 and 15 stating that twenty (20) days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed, or if such appeal has been filed it has been dismissed or denied.

If the rights authorized by this Variance are not exercised within one (1) year from the date of granting it shall elapse in accordance with the provisions of M.G.L. C. 40A Section 10.

Signed:  Jeffrey Yates, Clerk

Date: June 1, 2011

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I hereby signify that twenty (20) 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