



OFFICE OF THE  
**LITTLETON BOARD OF APPEALS**  
LITTLETON, MASSACHUSETTS 01460

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10/31/23 KPhen

Petitioner: TAMMY PELLETIER AND BRIAN PELLETIER

Case No: 23-968

Date Filed: October 3, 2023

The Littleton Board of Appeals conducted a public hearing on October 19, 2023 at 7:10 P.M. at the Shattuck Street Municipal Building, 37 Shattuck Street, Littleton, for a Variance or Special permit pursuant to Section 173-31 and Section 173-10B (1), to allow change or extension of a pre-existing non-conforming structure to allow the construction of a rear deck approximately 25' x 12' to replace an existing deck within the rear setback at 39 Washington Street, Littleton, Ma. Notice of the hearing was given by publication in the Lowell Sun, a newspaper circulated in Littleton, on October 5, and 12, 2023 and by mail to all abutters and parties in interest. Present and voting: Sherrill R. Gould, Chairman, Cheryl Hollinger, Vice Chairman, John Sewell, John Field and Rod Stewart, Members. Present and not voting were Kathleen O'Connor, and Daryl Baker, Alternates.

The Petitioner represented by Mitchell Dutcher of Dutcher Construction, presented drawings and a narrative requesting a variance to replace a small 8' x 4.5' wooden platform and brick patio in the rear of the house with a new Azek composite deck 25' x 12' across the back of the home. The Applicant demonstrated that the house is on a lot approximately 9,661 square feet with elevation changes and retaining walls to the rear, eliminating all usable back yard area. In addition, a garage and septic system are located to the west of the house almost to the property line and the elevation change and proximity of lot line to the east forecloses that area of the lot for outdoor enjoyment. There are two concrete retaining walls on the property and a swale between them so there is no level yard area. The lot is unique in these features.

The proposal is to construct a walk out deck off the rear of the house within approximately 9 feet of the lot line. The zoning requires 15 feet setback from the rear lot line, but there is a 10 foot permitted offset for detached garages.

There is only one affected abutter to the rear, represented to be more than 30' from the rear lot line. The Applicant stated that due to the size of the lot, and topography, as well as the location of the septic system there was no alternative location for the deck. The Applicant also explained that the lot line is not perpendicular to the street, so that a proposed 10' offset would not be the entire length of the deck, but would taper down to approximately 9' at one end.

The abutter to the rear submitted a letter in support of the proposal. No other abutters appeared.

The Board determined that the requested relief from setback would require a Variance.

FINDINGS: The Board found that the deck replacement requested was a reasonable request; that due to the size and topography of the lot and the location of the septic system, there were no alternative locations for the deck; that the lot was unique and that Petitioners have a hardship if denied the relief. The Board found that the requested relief would not substantially derogate from the intent and purpose of the zoning bylaw. The Board also found that in New England woodsy areas such as this, it would be reasonable to include in the granted relief permission for the new deck to be enclosed for three season use, as long as it did not increase the habitable space as defined by the Board of Health regulations.

DECISION: The Board voted unanimously to GRANT a Variance to construct a deck approximately 25' x 12' to replace the existing deck/patio in the rear of the house, substantially as shown on the plans submitted with the application, and not to be closer to the rear lot line than 9', with the condition that the deck could be covered and/or enclosed for three season use.

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: , Clerk, John Sewell

Date: 10/31/23

Book: 75458, Page 166.

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