



Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

Zoning Board of Appeals
John Lee, Chair
Drew Delaney, Vice Chair
Robert Fitzgerald, Clerk
David Anderson, Member
Judith Conroy, Member
Timothy Hoegler, Assoc. Member
Mark Major, Assoc. Member

DECISION - ZONING BOARD OF APPEALS CASE NO. 23-24

APPLICANT:

Kyle Laidman

OWNER OF RECORD:

Kyle Laidman

LOCATION OF PROPERTY INVOLVED:

424 Common Street
Walpole Assessors Map: 42-72
Zoning District: Residence B (RB)

APPLICATION:

A **Special Permit** under 12.3.C of the Walpole Zoning Bylaws to allow for the modification to a one-family dwelling that exceeds the impervious surface requirement for a residential use within the Water Resource Protection Overlay District.

DESCRIPTION OF PROJECT:

The applicant is proposing additions to the existing dwelling and driveway that will increase the properties total impervious surface from 15.65% of the property to 23.20%. The home is also a pre-existing non-conforming structure with respect to frontage. As such it is eligible for side setback relief as dictated under Zoning Bylaw, Section 6-C.9.

PUBLIC HEARING:

On August 21, 2023 a public hearing was opened and held in the Select Board Meeting Room of Walpole Town Hall, 135 School Street, for the purpose of receiving information and voting upon a decision as to the granting of Special Permit. The public hearing was closed that same evening.

On August 21, 2023 the following members were present and voting:

John Lee, Chair
Drew Delaney, Vice Chair
Judith Conroy, Member
David Anderson, Member
Timothy Hoegler, Associate Member

A motion was made by Ms. Conroy, and seconded by Mr. Delaney to approve the **Special Permit** under **Zoning Bylaws Section 12.3.C**, with conditions, for 424 Common Street to allow for a modification to a one-family dwelling that exceeds the impervious surface requirement for a residential use within the Water Resource Protection Overlay District based on a plan titled "Proposed House"



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Addition at 424 Common Street, Walpole, Ma” dated June 13, 2023 prepared by Craig Cygawnoski at RIM Engineering, Co. Inc, P.O Box 32, Mansfield, Ma 02048 02420.

The vote was (5-0-0) in favor: Lee-Aye, Delaney-Aye, Anderson-Aye, Conroy-Aye, Hoelger-Aye; therefore, the application for a **Special Permit** is hereby granted, subject to the following conditions:

CONDITIONS:

1. The Engineering Department shall be notified by the installer prior to installation of the infiltration systems for permitting/inspection
2. The as-built plan shall show the installed infiltration systems.
3. The property owner shall record this Decision with the Norfolk County Registry of Deeds and provide a copy along with proof of recording to the Zoning Board of Appeals, Walpole Town Clerk, and Walpole Building Department.
4. The proposed addition to the non-conforming building shall be constructed according to “Proposed House Addition at 424 Common Street, Walpole, Ma” dated June 13, 2023 prepared by Craig Cygawnoski at RIM Engineering, Co. Inc, P.O Box 32, Mansfield, Ma 02048 02420.

DECISION RATIONALE

It is the finding of the Board that the Applicant was able to meet the requirements of Section 12.3.C to allow the requested modification to a one-family dwelling that exceeds the impervious surface requirement for a residential use within the Water Resource Protection Overlay District to the property. The Board finds that the modification is in character with and follows the intent of the Zoning District in which it is located. Accordingly, the Board has determined that the Special Permit requested is warranted. Specifically, the Board made the following findings pursuant to Section 2.2.B.(1) of the Zoning Bylaw:

- (a) Does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested Special Permit;**

The Board finds that the proposed additions to the one-family dwelling, while exceeding 15% impervious surface for the lot, has been accounted for by meeting the applicable performance and design standards for mitigating the impact of stormwater runoff as defined within section 12.4.A, as well as complying with all of the criteria of Section 12.4.C. as set forth below. Therefore, the Board finds this criterion is satisfied.

- (b) shall not have vehicular and pedestrian traffic of a type of quantity so as to adversely affect the immediate neighborhood;**

The Board finds that the additions to the one-family dwelling which increase the impervious surface for the property within the WRPOD will not result in an adverse impact to the neighborhood relative to vehicular or pedestrian traffic. This special permit criteria is not applicable to the relief sought.



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- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

The Board finds that the proposed relief sought is residential in nature and dealing with protection of the Town's aquifer. This special permit criteria is not applicable to the relief sought.

- (d) shall comply with the dimensional requirements applicable to the zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that while the proposed additions to the dwelling conform to the applicable dimensional requirements of the Residence B (RB) Zoning District, with taking into consideration the sideyard setback relief granted under Section 6-C.9 of the Zoning Bylaw. Therefore, the Board finds that this criterion has been met.

- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that the proposed addition to the single-family dwelling, with a roof infiltration system, is residential in nature and designed correctly. There will not be any danger to the immediate neighborhood or the premises through fire, explosion, emission or wastes, or other causes. As result, this criterion has been met.

- (f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard as to adversely affect the immediate neighborhood;**

The Board finds that the proposed use is residential. Some noise and dust will be generated during construction. Nothing proposed by the Applicant will be used, generated, or would otherwise create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard as to adversely affect the immediate neighborhood. Therefore, this criterion is satisfied.

- (g) shall not adversely affect the character of the immediate neighborhood, and;**

The Board finds that the immediate neighborhood is residential and the proposed addition to a legally conforming single-family dwelling does not adversely affect the character of the immediate neighborhood, nor does the installation of the roof infiltration system. Therefore, the Board is satisfied that this condition is met.



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(h) shall not be incompatible with the purpose of the Zoning Bylaw or the purpose of the Zoning District in which the premises is located;

The proposed addition to the one-family dwelling, while exceeding the impervious surface permitted by right within the WRPOD, meets the standards needed for relief through a Special Permit as defined within the applicable section of the Zoning Bylaw. The use is also appropriate for the Zoning District in which the premises is located which is a residential zoning district. Therefore, the Board finds that this criterion is satisfied.

As required for the relief sought through Section 12.3.C. of the Zoning Bylaws, the Board has made the following findings pursuant to Section 12.4.C of the Zoning Bylaw:

(a) Complies with applicable performance and/or design criteria listed in section 12.3.C of the Zoning Bylaw;

The Board finds that the proposed roof infiltration system complies with applicable performance and/or design criteria as shown in section 12.3.C. All performance and design specifications have been outlined in submitted recharge calculations. Therefore, the Board finds that this criterion has been met.

(b) Will not, during construction or thereafter, have an adverse environmental impact on any water body or course in the district, and;

Through guidance of Town Engineering, the Board finds that this proposed increase in impervious surface will not have any adverse environmental impact on any water body in the district. All runoff will be captured, contained on site, and infiltrated back into the ground in a manner which will not disturb surrounding water bodies. Therefore, the Board finds this criterion has been met.

(c) Will not adversely affect an existing or potential water supply.

Through guidance of Town Engineering, the Board finds that this proposed increase in impervious surface will not adversely affect an existing or potential water supply. With design standards met the infiltration of water will occur to a standard needed for approval of this relief. Therefore, the Board finds that this criterion had been met.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant of thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good use".



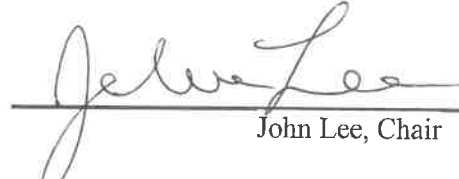
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Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority of special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded with the Norfolk registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner on record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant.

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS



John Lee, Chair

This decision was made on August 21, 2023 and filed with the Town Clerk on September 1, 2023

