



**Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals**

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

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**DECISION- BOARD OF APPEALS CASE NO. 21-20**

**APPLICANT:**

Ariel Dangelo

**OWNER OF RECORD:**

Ariel & Michael Dangelo

**LOCATION OF PROPERTY INVOLVED:**

654 North Street  
Walpole Assessors Map: 12-42-1  
Zoning District: Rural (R)

**APPLICATION:**

The grant of a **VARIANCE** under Section 5-B.3.A of the Zoning Bylaw to build a detached single-family dwelling on the same parcel as an existing detached single-family dwelling with the intention of demolishing the existing dwelling within a set timeframe from the completion of the new dwelling.

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On December 15, 2021 a Public Hearing was opened and held in the Main Meeting Room of Walpole Town Hall at 135 School Street, for the purpose of receiving information and voting upon a decision as to the granting of a Variance

On December 15, 2021 the members who were present and voting:

John Lee, Chair  
Drew Delaney, Vice Chair  
Robert Fitzgerald, Clerk  
David Anderson, Member  
Timothy Hoegler, Associate Member

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**VOTE OF THE BOARD:**

A motion to grant a Variance under Section 5-B.3.A., with reference to the plan titled "Plan Set: Proposed Dwelling, 654 North Street Walpole, MA 02082," by Fodera Engineering, 28 Harbor Street, Suite 204, Danvers, MA 01923, dated October 29, 2021 and Architectural Renderings by Royal Oaks Design, 3459 Lake Elmo Ave, Lake Elmo, MN, dated 11/1/2021, with conditions, by Mr. Fitzgerald, and seconded by Mr. Hoegler

The vote was (5-0-0) in favor: Lee-aye, Delaney-aye, Fitzgerald-aye, Anderson-aye, Hoegler-aye; therefore, the application for a **Variance** is hereby granted, subject to the following conditions:

#### **CONDITIONS:**

1. Within 60 days from the issuance of the temporary certificate of occupancy for the newly constructed single-family dwelling, the older existing single-family dwelling shall be demolished. Following the demolition of the existing single-family dwelling, the Applicant shall be prohibited from constructing or maintaining more than one single-family dwelling in the property without further application to the Board.
2. Appropriate separation of the property's utility lines within the driveway shall be provided.
3. The new single-family dwelling shall be located and constructed as shown on the plan titled "Plan Set: Proposed Dwelling, 654 North Street Walpole, MA 02082," by Fodera Engineering, 28 Harbor Street, Suite 204, Danvers, MA 01923, dated October 29, 2021 and Architectural Renderings by Royal Oaks Design, 3459 Lake Elmo Ave, Lake Elmo, MN, dated 11/1/2021.

#### **REASONS FOR DECISION:**

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

The property for which this variance is sought is within the Rural Zoning District, which prohibits more than one primary single-family detached dwelling on a parcel. The applicant's intent on preserving their existing single-family dwelling, while constructing their new single-family dwelling, is a temporary measure for the sole purpose of providing housing during construction. A literal enforcement of the provisions of this bylaw would involve substantial hardship for the applicant. Given the conditions set herein, for demolition of the existing primary dwelling within 60 days of the completion of the proposed new primary dwelling, the requested relief has been found suitable.

2. *Desirable relief may be granted without substantial detriment to the public good.*

The proposed relief will only be a temporary measure needed by the applicant for construction of their new primary dwelling. Noise and activity within the site typical for construction and demolition will be temporary inconveniences to the surrounding area and public good. Furthermore, the Board received no opposition to the variance request from the general public or from any municipal Boards, Committees, or Departments.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

While the requested relief for maintaining the existing single-family dwelling conflicts with the intent of the applicable bylaw, the situation is only a temporary measure given the purpose for the construction of the new single-family dwelling. The conditions set in place, and agreed to by the applicant, provide the relief sought by the applicant while also maintaining the purpose of the bylaw through the prescribed demolition of the existing single-family dwelling. It should also be

noted that the proposed location of the new single-family dwelling is and shall be compliant with all dimensional regulations for construction within the Rural Zoning District.

**Consistency: This decision is consistent with purpose and intent of the Zoning By-laws. The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.**

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Said Variance is granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

... No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the 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 of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant. 11

**APPEALS FROM THIS DECISION OF A BOARD OF APPEALS 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.**

WALPOLZONING BOARD OF APPEALS

Robert Fitzgerald 1/3/22  
Robert Fitzgerald, Clerk

PD/rf

cc: Town Clerk  
Building Inspector  
Applicant

This decision was made on December 15, 2021 and filed with the Town Clerk on January 3, 2022.