



TOWN OF ASHLAND, MASSACHUSETTS
101 MAIN STREET, ASHLAND, MA 01721
OFFICE OF THE
ZONING BOARD OF APPEALS

John Trefethen, ZBA Chairman

Peter Matchak, Town Planner
Emma Snellings, Assistant Town Planner

ZONING BOARD OF APPEALS DECISION
CASE Special Permit 2-22

MAP 29, LOT 097

LOCUS: 71 Raymond Way
PETITIONER: Jessica B. Kerr and James S. Ladner
PROPERTY OWNER: Jessica B. Kerr and James S. Ladner

At the Public Hearing on October 26, 2021, the Zoning Board of Appeals (the “Board”) voted 3-0 to grant a special permit at 71 Raymond Way (the “Locus”).

Jessica B. Kerr and James S. Ladner (the “Applicant”), applied for a Special Permit per Chapter 40A, Section 6 of the Massachusetts Zoning Act and Chapter 282, Sections 3.3 (Non-Conforming Uses and Structures) and 9.3 (Special Permits) of the Ashland Bylaws to allow for the construction of an addition (garage and additional living area) to a pre-existing non-conforming structure which encroaches on the northerly side yard setback. The locus is located in a Residential A (RA) Zoning District.

The Project shall be constructed and operated in accordance with the terms and conditions hereinafter specified.

BACKGROUND AND PROCESS

1. The Zoning Board of Appeals (the “Board”) received an Application for a Special Permit on Sept 14, 2021.
2. The application packet for a Special Permit, stamped in by the Town Clerk on Sept 14, 2021, contained the following:
 - a. Completed Application case I.D. SP2-22.
 - b. Building Commissioner’s Denial Letter dated Aug 4, 2021.
 - c. Abutter’s List dated Aug 25, 2021.
 - d. Property Card for 71 Raymond Way.
 - e. Proposed Addition Plan; 71 Raymond Way, Ashland, MA. Dated Aug 31, 2021; Scale: 1”=30’; Prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746.
 - f. A nine (9) page set of Building Plans titled; Addition to the Jessica Keer and James Lander Residence, 71 Raymond Way, Ashland, MA 01721; dated Sept 10,

2021. Prepared by Tricia Kendall Architecture and Design, 60 Pleasant Street, 10G, Ashland, MA 01721.

3. Other documents submitted:
 - a. Quitclaim Deed recorded as Southern Middlesex registry of Deeds Book: 68605, Page: 489.

The foregoing memoranda and letters were read into the record and are incorporated in this decision by reference and made a part hereof.

FACTS & EVIDENCE

This request was received on September 14, 2021 and a public hearing was scheduled for October 12, 2021 at 7:00 PM. Notice of the public hearing was published in the MetroWest Daily News on Tuesday, September 28, 2021 and Monday, October 4, 2021.

The public hearing was posted in the Ashland Town Hall and on the Town of Ashland website and provided to all “parties of interest,” including all abutters, as required by MGL Chapter 40A, Section 11.

The public hearing commenced as scheduled on October 12, 2021. The public hearing was continued to October 26, 2021. The following members were seated on the public hearing: Mr. Trefethen, Mr. Forestal, and Mr. Siegel.

At the public hearing on October 12, 2021, the applicant presented testimony citing the need to encroach on the existing northerly side setback line to build the proposed addition which looks to add a new garage and additional living space. The Board opened public comment and Devin Cashman, 23 Long Hill Road was present and asked to speak. Mr Cashman pointed out the existence of a large bolder on the abutting property line and wanted to confirm that no action would be taken to remove the bolder. Mr. Cashman supported the application as presented. At the continued public hearing on October 26, 2021, the Board voted to close the public hearing and enter into deliberations.

FINDINGS BY THE BOARD

The Board, after review of the facts, plans, and evidence presented at this hearing, and after deliberations reviewing all submitted material, the Board makes the following findings for Special Permit application of Jessica B. Kerr and James S. Ladner, zoning case SP2-22 at 71 Raymond Way. The Zoning Board concludes the following:

- A. The desired Special Permit may be granted without nullifying or substantially derogating from the intent and/or purpose of the Zoning By-Laws. The Board finds that the current structure has a northerly side yard setback of 22.6’ from the existing property line. Furthermore, the property has an aging and decaying timber retaining wall which has a setback of 3.0’ from the existing property line. The proposed addition will create a northerly side yard setback of 5.5’ by replacing the existing timber retaining wall with a foundation wall for the proposed garage and additional living space. While analyzing the

development patterns consisting of the existing abutting properties the Board finds the proposed addition shall not be more detrimental than the existing setback of the side yard while the proposed addition fits the neighborhood character.

- B. The Residential A zone has a minimum lot size of 30,000 square feet, minimum of 150' of frontage, a required front yard setback of 40' and a required side yard setback of 10'.
- C. The pre-existing non-conforming lot has an area of 15,281 sq. ft., and appropriate frontage along Raymond Way. The pre-existing non-conforming structure has a side yard setback of 22.0' and a front yard setback of 32.1'. The proposed addition will have a side yard setback of 5.5' and a front yard setback of 32.1'.
- D. No abutters or members of the public spoke in opposition of the application.
- E. In reference to the criteria for granting a Special Permit in Chapter 282 Section 9.3.2 of the Ashland By-laws, the Board found that:
 - The project will serve community need. The Special Permit would allow the construction of an addition that shall be 30' x 20' in size expanding the garage and living space of the current residents.
 - Traffic flow and parking will not be negatively affected by the proposed addition.
 - Adequate public utilities, including public water, are available at the locus. 71 Raymond Way is connected to the municipal sewer.
 - The existing neighborhood is residential, and the project will be consistent with the character of the existing neighborhood.
 - There are no impacts to the natural environment from this project.
 - There will be no adverse fiscal impacts on the town services due to the proposed building.

CONDITIONS

In accordance with Chapter 282 Section 3.3 (Nonconforming Uses and Structures), and with the criteria set forth in Chapter 282 Section 9.3 (Special Permits) of the Ashland Zoning Bylaws, and on the basis of the foregoing findings, following a motion made and recorded, and after due and open deliberation, the Board by unanimous vote grants Jessica B. Kerr and James S. Ladner a Special Permit to construct an addition on a pre-existing non-conforming structure which encroaches on the northerly side yard setback at 71 Raymond Way subject to the following conditions:

1. The Applicant shall comply with any and all other relevant By-Laws.
2. The Applicant shall control all storm water on the locus to meet pre and post runoff flow amounts.
3. The Applicant shall not disturb or cause the displacement of a large existing boulder that presently exists in close proximity or on the property line of 71 Raymond Way and 23 Long Hill Road.
4. The Applicant shall comply with any and all Ashland and Massachusetts State Building Codes.
5. During construction, the applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of any roadways. The applicant shall at all times use all reasonable means to minimize inconvenience to nearby residences and businesses. Hours of construction shall be limited to 7:00 AM to 7:00 PM,

- Monday through Saturday, with no construction on Sunday or any state or federal holiday.
6. The applicant shall comply with any requirements of the Building Department.
 7. This Decision shall be recorded at the South Middlesex Registry of Deeds. Proof of such recording shall be submitted to the Ashland Building Department and Planning Department prior to issuance of a Building Permit.

The following members sat and voted on this hearing:

John Trefethen, Chair, voted to grant the Special Permit 2-22 as stated.

Brian Forestal, Member, voted to grant the Special Permit 2-22 as stated.

Stuart Siegel, Associate Member, voted to grant the Special Permit 2-22 as stated.

Pursuant to Section 9.4.17 of the Ashland Zoning Bylaws, any appeal to this decision shall be made in accordance with M.G.L. c. 40A, § 17 and shall be filed within 20 days of the date this decision was stamped by the Town Clerk's Office.

TOWN OF ASHLAND – ZONING BOARD OF APPEALS DECISION

The Board voted in favor of granting Special Permit 6-21 in order to construct an addition on a pre-existing non-conforming structure which encroaches on the side yard setback subject to conditions as outlined above, for the property located at 28 Roberts Road, Map 10, Lot 097.

Date: _____

John Trefethen, Board Chair

Brian Forestal, Member

Stuart Siegel, Associate Member

Filed with the Town Clerk on:

Date: _____

Tara M. Ward, Town Clerk

I HEREBY CERTIFY THAT TWENTY DAYS HAVE ELAPSED FROM THE DATE THIS DECISION WAS FILED IN THE TOWN CLERK’S OFFICE AND THAT NO APPEAL HAS BEEN FILED.

Date: _____

Tara M. Ward, Town Clerk