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TOWN OF WENHAM
ZONING BOARD OF APPEALS

RECORD AND DECISION
16 Larch Row, Wenham Massachusetts
Petitioner: Jerome and Marcie Hunsaker

The Zoning Board of Appeals for the Town of Wenham, Massachusetts, conducted a public hearing on **Wednesday July 14, 2021 at 7:30 PM** via Zoom, on the petition of **Jerome and Marcie Hunsaker, 16 Larch Row Wenham MA** for a variance from Sections 5.2.2.1 (3) (Hammerhead Lot); 4.4.3 (Nonconforming Structures); per Section 4.4.3.2 (Variance Required); 13.6 (Variances) to allow a reduced setback for a house and a shed after the issuance of a Special Permit from the Planning Board for a Hammerhead Lot (Section 5.2.2.1) at **16 Larch Row (Assessor's Map 19 Lot 055)**. Present at all hearings were the following members of the Board:

Anthony M. Feeherry (Chairman)
Evan Campbell
Dana Begin
Kelly Schmidt (Associate Member)
Richard Modliszewski (Associate Member)

A notice of public hearing on this application was advertised as follows, a true copy of which is on file in the office of the Zoning Board of Appeals:

1. Published in *The Chronicle and Transcript*, a newspaper of general circulation in the Town of Wenham on – Thursday June 24, 2021 and Thursday July 1, 2021
2. Posted at the Town Clerk's office June 17, 2021.
3. Mailed June 17, 2021 to the petitioner, abutters, owners of the land directly opposite the property in question on any public or private street or way, abutters to abutter within 300 feet of the subject property.

The public hearing was closed on July 14, 2021.

RELEVANT FACTS AND BYLAW PROVISIONS

With respect to the requested variance, the relevant provisions in the Zoning Bylaws are Sections 5.2.2.1 (3) (Hammerhead Lot); 13.6 (Variances). Jerome and Marcia Hunsaker are the owners of 16 Larch Row, consisting of an antique colonial residence on approximately 5 acres of land with 297 +/-feet of frontage on Larch Row. The Hunsakers wish to downsize from their existing home by building a smaller home on a roughly 40,000 ± SF house lot to be divided from their existing property. To do so, they intend to seek a special permit from the Planning Board to reconfigure the existing home at 16 Larch Row into a "hammerhead" lot in accordance with Section 255-5.2B (1) of the Zoning Bylaw.

The Applicants submitted a one (1) page site plan dated 06/15/21 created by Hancock Associates entitled 16 Larch Row, Wenham, Massachusetts 01984 showing the location of the existing house and a proposed hammerhead lot and remaining 40,100 sf proposed lot 1. The plan shows access to lot 1 from a common access driveway.

The existing residence is located 43.4 feet from the northerly side lot line and does not satisfy the requirement of a 50-foot setback from any lot line under Section 255-5.2(B)(c) of the Bylaw. The existing lot is a large, irregularly shaped lot in improved with a pre-existing residence that cannot be moved without considerable expense and potential damage to the antique building. Moreover, the existing 43.4 foot setback from the northerly lot line is well in excess of the required 15-foot setback in the underlying zoning district and nearly complies with the 50-foot hammerhead setback. In this case, relief can be granted without detriment to the public good and without substantially derogating from the intent or purpose of the setback requirement.

Abutters at 19 Larch Row submitted a letter in opposition to the requested variance stating that the requested variance reflects "...a disregard for those by-laws and the spirit in which they were written."

Abutters at 14 Larch Row submitted a letter indicating their "full support" of the Hunsackers' variance request.

The lot is large and irregularly shaped and the existing antique structure is unique. For the Board to request that the existing house be moved or a portion of the house be removed would impose undue hardship and be detrimental to the applicants.

DECISION

**Action on Application for Variance from Sections 5.2.2.1 (3) (Hammerhead Lot); 13.6 (Variances):
APPROVED WITH CONDITIONS**

VOTE: (Yes) Anthony M. Feeherry (Chairman) (Yes) Evan Campbell (Yes) Dana Begin

With respect to the requested variance, on July 21, 2021 the Board unanimously approved the requested variance under Sections 5.2.2.1 (3) (Hammerhead Lot); 13.6 (Variances) to allow the currently conforming structure (the house) to remain in its current location after the creation of the Hammerhead Lot. The granting of the variance is based on the fact that the lot is large and irregularly shaped and the existing antique structure is unique and substantial hardship would occur if the Applicant were required to move the house which was built in conformance with the current regulations. The granting of the variance would not cause any detriment to the neighborhood or abutters as there is no change to the structure that has been in this location for over 100 years.

Therefor by unanimous vote the Zoning Board of Appeals grants the requested variance under Section 5.2.2.1 (3) (Hammerhead Lot); 13.6 (Variances) to allow the house to remain in its current location after the creation of the Hammerhead Lot at 16 Larch Row (Assessor's Map 19 Lot 055) subject to the below Special Conditions:

SPECIAL CONDITIONS

1. The Petitioner shall be responsible for adhering to all other pertinent provisions and requirements of the Town of Wenham Zoning Bylaw.
2. The Applicant shall be responsible for acquiring a special permit from the Planning Board for a Hammerhead lot in substantial conformance with the plan as proposed.
3. The ZBA strongly recommends that the common driveway be utilized for access to Lot 1 in order to minimize construction on Larch Row and to preserve as many mature trees as

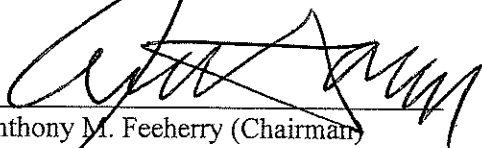
possible and that the trees to be preserved be determined by the Planning Board with the input of the Tree Warden.

4. The location of the new structure on Lot 1 shall be in the location as provided on the plan as any material change in the location would be inconsistent with the Zoning Board's decision.

ZBA SPECIAL PERMIT/VARIANCE APPROVAL
16 Larch Row (Assessor's Map 19 Lot 055)

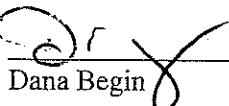
DATE: August 5, 2021

Wenham Zoning Board of Appeals



Anthony M. Feeherry (Chairman)

Evan Campbell



Dana Begin

DATE:

August 12, 2021

FILED IN THE OFFICE OF THE TOWN
CLERK ON

August 12, 2021
BY *Trudy L. Reed*

I hereby certify that 20 days have elapsed from the date this decision was filed with this office and no notice of appeal was received during that period.

ATTEST

TOWN CLERK DATE