

City of Worcester, MA



2023 00066895

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June 14, 2023

I certify that twenty days have elapsed after the attached Decision for **19 Chequeset Road (Lot 1) & 0 Ansonia Road (Lot 2)** has been filed with the City Clerk Department as of **May 17, 2023** and that no appeal has been filed.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

Stephen AJ Pottle
Deputy City Clerk



VARIANCE – FINDINGS OF FACT AND DECISION

**19 Chequesset Road (Lot 1) & 0 Ansonia Road (Lot 2) (MBL 46-005-00239)
(ZB-2023-026)**

The Zoning Board of Appeals scheduled a hybrid public hearing on April 24, 2023, at 5:30 PM in the Worcester City Hall, 455 Main Street, Levi Lincoln Chamber, on the petition of Elvira DiLiddo, seeking Variances for property located at 19 Chequesset Road, Worcester, Massachusetts.

Due notice of the public hearing to be held on April 24, 2023, was sent to the individuals listed on the City of Worcester Certified Abutter's list for the subject property.

On April 10 & April 17, 2023, notice of the hearing was duly advertised in the Worcester Telegram & Gazette.

On April 24, 2023, the hybrid meeting was called to order by Russell Karlstad, Chair. Board members physically present for the hearing at Worcester City Hall, 455 Main Street, Levi Lincoln Chamber were Russell Karlstad, George Cortes, Nathan Sabo, and Shannon Campaniello. Board members Eric Torkomoo and Jordan Berg Powers participated remotely. Board member Anthony Dell'Aera was absent. Remote participation was facilitated for attendees via phone at call-in number, 415-655-0001 (Access Code: 160 884 7670) and via Webex link (<https://cow.webex.com/meet/zoningboardofappealswebex>).

FINDINGS

The Worcester Zoning Board of Appeals (ZBA), having conducted a public hearing and reviewed all the submitted evidence, finds that:

1. Elvira DiLiddo, whose address is 2A Pocono Road, Worcester, MA, 01605, is the owner and petitioner of certain land located at 19 Chequesset Road as more particularly described in a deed recorded with the Worcester District Registry of Deeds Book 66933, Page 233.
2. Said land is located in a zoning district classified under the City of Worcester Zoning Ordinance as an RL-7 (Residence, Limited) zoning district.
3. Presently on the premises is a non-conforming single-family detached dwelling (c. 1930 per Assessors records).
4. The petitioner seeks to divide the property into two lots in order to construct another single-family detached dwelling with associated site work on Lot 2 (accessed via Ansonia Road), with the existing structure and improvements at 19 Chequesset Road to remain on Lot 1.
5. The petitioner seeks the following:

19 Chequesset Road aka Lot 1 (Existing):

Variance: For relief of **1,110 square feet (15.7%)** from the minimum 7,000 square foot lot area requirement for a single-family detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief of **15 feet (23%)** from the minimum 65 foot frontage requirement for a single-family detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)

0 Ansonia Road aka Lot 2 (Proposed):

Variance: For relief of **400 square feet (5.7%)** from the minimum 7,000 square foot lot area requirement for a single-family detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)

Findings of Fact – Variance:

6. Per Article II, Section 6 (A)(3), the ZBA, as Permit Granting Authority, may grant upon appeal or petition with respect to particular land or structures, a variance from the dimensional terms of the Zoning Ordinance. The ZBA may grant a variance only when all statutory requirements are met, including the following findings:

a. Describe how a literal enforcement of the provisions of the City of Worcester Zoning Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant:

The house is already completely constructed, with utilities and finish treatments. In order to meet the required setback, the house would have to be lifted and moved 1.3 feet to the north. This would require the installation of new foundation walls and the disconnection and reconnection of all utilities. The work would create a significant financial hardship for a move of less than one and one-half feet. Between the houses, there exists more than 20 feet of open, undeveloped space.

b. Describe how the hardship is owing to circumstances relating to the soil conditions, shape, and/or topography of the land or structures and how the hardship especially affects said land or structures, but does not affect generally the zoning district in which it is located:

The shape of the lot contributed to the erroneous layout by the engineer. The Lot lines where the house is located are not parallel, and the configuration of the lot limited the area for house construction. Apparently, in an effort to favor the existing house at 45 Garrison Avenue, the engineer laid the foundation out too close to the southern property line. In that location, the property at 43 Garrison has more than 13 feet of side yard, which was mistakenly considered by the engineer as sufficient for the house. Only at the time of the as-built was it discovered that the foundation was too close to the property line.

c. Describe how desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the City of Worcester Zoning Ordinance:

Between the new house at 45A Garrison Avenue and the existing house at 43 Garrison Avenue, the distance exceeds 16 feet, which is the sum of both side yard setbacks. Although this house will be located 6.7 feet from the property line, the houses are actually located approximately 21 feet apart. The use of the property as a single family house is consistent with the Zoning Ordinance, only the side yard is deficient, by less than 1.3 feet.

d. Describe how the dimensional variance as it relates to floor space, bulk, number of occupants or other relevant measures, if granted, shall be no greater than the minimum necessary to provide relief from the statutory hardship:

The requested variance is not related to floor space, bulk or number of occupants, and no relief is requested regarding those dimensional requirements. The variance is related solely to side yard setback. The variance requested is minimum amount necessary to for the house to remain where it is presently situated.

DECISION

At a meeting of the Board on April 24, 2023, and on motion duly made and seconded, it was voted 5-0 by Board members Russell Karlstad, George Cortes, Nathan Sabo, Jordan Berg Powers, and Eric Torkornoo to **approve** the requested:

19 Chequesset Road aka Lot 1 (Existing):

Variance: For relief of **1,110 square feet** from the minimum 7,000 square foot lot area requirement for a single-family detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)

Variance: For relief of **15 feet** from the minimum 65 feet frontage requirement for a single-family detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)

0 Ansonia Road aka Lot 2 (Proposed):

Variance: For relief of **400 square feet** from the minimum 7,000 square foot lot area requirement for a single-family detached dwelling in an RL-7 Zone (Article IV, Section 4, Table 4.2)

With the following **conditions of approval**:

1. Prior to issuance of a building permit, provide one (1) to-scale, stamped/sealed original of a final revised definitive site plan-set, , and a PDF file of the same, to the Division of Planning & Regulatory Services reflecting the following changes:
 - a. Revise architectural plans to reconcile with civil plans; and
 - b. Reflect a 12' wide driveway within Ansonia Road widening to accommodate 2 vehicles Lot 2.
2. Provided that the project is constructed and operated in substantial accordance with the findings of fact and the final revised definitive site plans on file with the City of Worcester and in accordance with all applicable governmental codes.

The Board also voted unanimously to approve **waivers** of the following plan requirements:

1. Distances from adjacent buildings
2. Percentage of the lot covered by the principal and accessory buildings

The Variances shall not take effect until the petitioner records, at his or her own expense, a copy thereof with the Worcester District Registry of Deeds, pursuant to Massachusetts General Laws, Chapter 40A, Section 11, as amended. The rights authorized by the Variances must commence no later than one year from the grant hereof. If the requested Variances are litigated, all time periods for recording and construction shall not commence to toll until a final, favorable decision of the Honorable Court is rendered.

Appeals of this decision shall be made pursuant to M.G.L. c. 40A § 17 and shall be filed within twenty days after the filing of this decision in the office of the City Clerk.

It was **ORDERED** by the Board that persons notified of the hearing be notified of the foregoing decision.

The names typed below represent the intent to sign the foregoing document in accordance with MGL Chapter 110G §9. Duly authorized by Ch. 110G and recorded at Worcester Registry of Deeds in Book 62537, Page 327.

ADJOURNED



RUSSELL KARLSTAD

DATE 5-15-23

JORDAN BERG POWERS

DATE _____



GEORGE CORTES

DATE 5/15/23



NATHAN SABO

DATE 5/15/23

ERIC TORKORNOO

DATE _____

REMINDERS

Time Limitations: If the rights authorized by a Variance are not exercised within one (1) year of the date of grant of such Variance they shall lapse (one year from date Variance is received by the City Clerk). Per Article II, Section 9, D. 7. of the City of Worcester Zoning Ordinance.

Landscaping Requirements: Required landscaping shall be maintained in a healthy growing condition, free of refuse and debris, and any plantings that do not survive shall be replaced in kind by the applicant or the property owner within a reasonable period of time. All plant materials and fencing shall be arranged and maintained so as not to obscure the vision of traffic. There shall be no parking of vehicles or snow storage in areas used for screening and buffering. Per Article V, Section 5, C. iv of the City of Worcester Zoning Ordinance.

Construction Noise: No person shall operate any powered construction equipment or build, erect construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project, except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday, and between the hours of 9:00 a.m. and 7:00 p.m. on Sundays. Per Chapter 9 Section 1A (e) (9) of the City of Worcester's Ordinance Relative to Excessive and Unreasonable Noise.