



ZONING BOARD OF APPEALS, TOWN OF WEST BOYLSTON
140 WORCESTER STREET
WEST BOYLSTON, MASSACHUSETTS 01583

Notice of Decision to Deny a Variance

Applicants: JH Energy USA, LLC

Nature of Request: Variance from the minimum lot frontage dimensional requirement in the Industrial District

Board Members: Christopher E. Olson, Chair
Barur R. Rajeshkumar
David Femia
Charles Witkus
Mark Wyatt, Associate member

On January 25, 2019, the Petitioner, JH Energy USA, LLC, filed a Petition with the Zoning Board of Appeals, Town of West Boylston, Massachusetts, for a Variance from the Zoning Bylaws, Section 4.2, for the minimum lot frontage dimensional requirement.

Under Section 6.2.F of the Zoning Bylaws, the Zoning Board of Appeals (“the Board”) may grant, upon appeal or petition with respect to particular land or structure, a variance from the provisions of the town’s bylaws.

Notice was duly given as required by Section 11, Chapter 40A, Mass. General Laws, as well as notices sent to all persons deemed to be affected thereby, as they appear on the most recent tax list, and at which hearing all parties desiring to be heard were given an opportunity to speak.

The Zoning Board of Appeals of the Town of West Boylston, Massachusetts held a public hearing on February 21, 2019 at the West Boylston Town Offices, 140 Worcester Street, West Boylston, MA.

The above noted Board members each attended the hearing and voted on this Petition.

Submissions: The Petitioner submitted along with the Petition, a Request for Findings of Fact (Form A), a certified list of abutters (Form C), a memorandum in support of Variance application, a conceptual site plan dated November 8, 2018, and a Zoning Interpretation Request form.

FACTS AND FINDINGS:

The Zoning Board of Appeals (the Board), after carefully considering all of the facts and evidence submitted at the hearing, makes the following findings:

1. The Board finds through testimony of the Petitioner (either in written submissions or in person at the hearing) and evidence submitted that JH Energy USA, LLC (1285 Baring Blvd., Sparks, NV) is the owner of certain land situated along the northeasterly portion of Hartwell Street (across from the American Legion Post) in the Town of West Boylston, described in a deed recorded in the Worcester District Registry of Deeds, Book 59745, Page 368, and as shown on the West Boylston Board of Assessors Map No. 170, Lot No. 6, Lot 0 and Map No. 169, Lot No. 26, Lot 1.
2. The Board finds said land is situated in a district classified under the Town of West Boylston Zoning Bylaws as Industrial.
3. The Board finds that presently located on the premises is vacant land.
4. As depicted on the conceptual site plan, the Petitioner seeks a variance to construct two industrial buildings on two independent (yet to be created) lots, depicted on the conceptual site plan as Lot 1 and Lot 2, where Lot 1 is proposed with a lot frontage of 150 feet and Lot 2 is proposed with a lot frontage of 136 feet. (Note: the Petitioner's memorandum states that the frontage for proposed Lot 2 is 134 feet.)
5. The current lot includes approximately 16.4 acres of land.
6. Section 4.2 of the Zoning Bylaws states that the minimum lot frontage in the Industrial District is 150 feet.
7. In accordance with the Zoning Bylaws Section 6.2.F, the Board may grant a variance in this matter if the Board finds that owing to the circumstances relating to the soil conditions, shape or topography of the land but not affecting the general zoning district, a literal enforcement of the provisions of the zoning bylaw would involve substantial hardship, financial or otherwise, to the petitioner, and that relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning bylaw.
8. The Petitioner argues that the shape of the current lot is long and narrow, and given its large area of over 16 acres, it would not be detrimental to the neighboring properties if it were split into two independent lots.

9. The Board finds that the Petitioner has not shown that there is sufficient evidence of circumstances relating to the soil conditions, shape, or topography of the land and especially affecting the land.

10. The Board finds the Petitioner has not provided evidence that a literal enforcement of the provisions within the bylaws would involve substantial hardship, financial or otherwise, to the Petitioner.

11. For the foregoing reasons, the Board finds that the standard for granting a variance has NOT been met.

DECISION:

The Board finds and so votes, by a vote of three (3) in favor and two (2) opposed, that in accordance with Zoning Bylaw Section 6.2.F the Petitioner in this matter has not provided sufficient evidence that circumstances relating to the soil conditions, shape, or topography of the land and especially affecting the land exist; or that a literal enforcement of the provisions within the bylaws would involve substantial hardship, financial or otherwise, to the Petitioner. Therefore, the Petition for Variance is **DENIED**.

Decision of the Town of West Boylston Zoning Board of Appeals Action: The Board, by the Chair's signature below, being present, voted as follows for the above-referenced Variance request under Section 4.2 of the Zoning Bylaws:

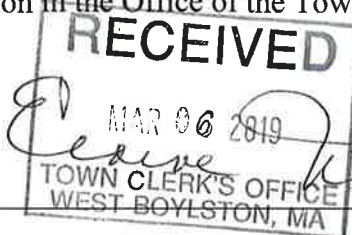
Christopher E. Olson – “yes”
Barur R. Rajeshkumar – “no”
David Femia – “no”
Charles Witkus – “yes”
Mark Wyatt – “yes”



Christopher E. Olson
Chair

Notice is hereby given that any appeal from this Decision shall be made pursuant to Massachusetts General Laws, Chapter 40A, §17, and shall be filed within twenty (20) days after the date of the filing of this Decision in the Office of the Town Clerk of West Boylston, MA.

Filed with the Town Clerk on _____





TOWN OF WEST BOYLSTON

ZONING BOARD OF APPEALS

140 Worcester Street, West Boylston, MA 01583
zba@westboylston-ma.gov

VOTE SHEET

DATE: 2-21-2019

RE: Motion to approve J.H. Energy USA LLC,
for a variance for minimum frontage requirement
of Section 4.2 from 150 to 134 located at
Westerly, Hartwell.

	VOTE	
	YES	NO
<u>Christopher E Olson</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Barry B. Benjamin</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Mike Lyall</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Dan M. Femia</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Charles W. Wicks</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

RECEIVED

FEB 21 2019

TOWN CLERK'S OFFICE
WEST BOYLSTON, MA