



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

**Notice of Decision to Deny a Variance**

**Applicants:** James A. Thompson and Anastasia Patsiouris

**Nature of Request:** Variances to re-draw lot line and decrease frontage in the Single Residence District

**Board Members:** Christopher E. Olson, Chair  
Barur R. Rajeshkumar  
Nathaniel Orciani  
David Femia  
John Benson

On June 8, 2020, the Petitioners, James A. Thompson and Anastasia Patsiouris, filed a Petition with the Zoning Board of Appeals, Town of West Boylston, Massachusetts, for Variances from the Zoning Bylaws, Sections 4.2 and 4.2/4.2.C, for the re-drawing of a lot line to transfer a portion of land at 3 Evans Road to the neighboring lot at 1 Evans Road.

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 July 16, 2020 via remote participation over the internet due to the statewide covid-19 state of emergency and orders from the Governor related to the suspension of certain provisions of the open meeting law.

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, and Exhibits 1-9.

## **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 Petitioners (either in written submissions, in person at the hearing, or through their attorney, Mr. George P. Kiritsy) and evidence submitted that James A. Thompson and Anastasia Patsiouris are the owners of certain land situated on the easterly side of Evans Road in the Town of West Boylston, described in a deed recorded in the Worcester District Registry of Deeds, Book 34476, Page 2 (Lot 16 and Parcel A), and as shown on the West Boylston Board of Assessors Map No. 166 Lot No. 002 (3 Evans Road).
2. The Board finds said land is situated in a district classified under the Town of West Boylston Zoning Bylaws as Single Residence.
3. The Board finds that presently located on the premises is a pre-existing single-family house.
4. As depicted on the plan noted as Exhibit #8, dated June 28, 1995, the Petitioner seeks two variances to re-draw the lot line to revert back to the pre-1992 lot line.
5. The current lot at 3 Evans Road includes a portion denoted as "Parcel A" in Exhibit #8 that was conveyed to said lot following a judgment entered by the Worcester Superior Court in 1994 and amended in 1995 (Worcester Civil Action No. 92-1171) after an adversarial case was brought by previous owners of 3 Evans Road based upon adverse possession. Prior to the judgment of the Court, "Parcel A" was part of the lot at 1 Evans Road.
6. "Parcel A" has a total area of about 1,160 square feet and about 18 feet of frontage on Evans Road.
7. Section 4.2 of the Zoning Bylaws details the schedule of dimensional requirements for lots in West Boylston and states that, in the Single Residence district, the minimum lot size is 40,000 square feet. Currently, 3 Evans Road has a total lot area of 18,866 square feet and 1 Evans Road has a total lot area of 11,372 square feet. For purposes of the present case, both lots at 3 Evans Road and 1 Evans Road are pre-existing non-conforming lots.
8. Section 4.2 of the Zoning Bylaws also states that the minimum lot frontage in the Single Residence District is 120 feet.
9. Further, Section 4.2.C empowers this Board to grant a special permit for the reduction of the minimum residential lot frontage requirements of Section 4.2. Importantly, such special permits shall be granted "only for residential lots with a minimum of 40,000 square feet" and such reduced frontage shall be "not less than 100 feet". As the instant lot does not meet the

minimum area of 40,000 square feet, a special permit cannot be granted for the relief requested.

10. 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.

11. The Petitioners argue that they (and the current owners of 1 Evans Road) wish to re-draw the lot line between the two lots to revert back to their pre-1992 configuration. In doing so, both lots, which are currently non-conforming with respect to lot size, would remain non-conforming.

12. The Petitioners also argue that, by reverting the lot line to its pre-1992 configuration (see Exhibit #8) the minimum side yard for the existing house at 1 Evans Road would be improved from its current non-conforming size of less than 10 feet to being in conformity with Section 4.2 (currently 10 feet minimum side yard).

13. The Petitioners acknowledge that, 3 Evans Road, which currently has about 118 feet of frontage on Evans Road, and is, thus, non-conforming with respect to frontage, would lose about 18 feet of frontage if "Parcel A" was transferred to 1 Evans Road, which would make 3 Evans Road more non-conforming as to frontage.

14. The Petitioners argue that a straightforward re-drawing of the lot line in this case would be preferable (and potentially more marketable) to creating an easement for the exclusive use of "Parcel A" by the owners of 1 Evans Road.

15. The Petitioners argued at the hearing that the lot shape is atypical as it abuts two roads, Evans Road on the west and Prospect Street on the east.

16. No evidence of soil conditions or topography of the land was provided to indicate that the lot was especially affected relative to the general district.

17. The Board finds that Petitioners have 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 at 3 Evans Road.

18. 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 five (1) in favor and four (4) opposed to the granting of the requested Variances, that in accordance with Zoning Bylaw Section 6.2.F the Petitioners in this matter have 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 Petitioners. Therefore, the Petition for Variances are 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 (minimum lot size) of the Zoning Bylaws:

Christopher E. Olson – “no”  
Barur R. Rajeshkumar – “no”  
Nathaniel Orciani – “yes”  
David Femia – “no”  
John Benson – “no”

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 4.2/4.2.C (reduction of minimum frontage) of the Zoning Bylaws:

Christopher E. Olson – “no”  
Barur R. Rajeshkumar – “no”  
Nathaniel Orciani – “yes”  
David Femia – “no”  
John Benson – “no”



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

