



TOWN OF HOLDEN

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ZONING BOARD OF APPEALS PUBLIC HEARING, September 12, 2019

Michael & Jean Conway

Case No. SP-1904

The Zoning Board of Appeals held a public hearing on Thursday, September 12, 2019 at 7:45 p.m. in the Holden Senior Center on the Petition of Michael and Jean Conway for a SPECIAL PERMIT for property located at 79 Avery Road to build a single family home.

Members in attendance: R. Spakauskas, S. Annunziata, J. Deignan, R. Fraser, F. Lonardo, and B. Meljac (2nd Alternate)

Others in attendance: D. Lindberg – Building Commissioner, C. Perkins – Secretary, Michael and Jean Conway – 18 Avery Heights Dr.

R. Spakauskas reviewed the procedures for the hearing and R. Fraser made a motion to waive the reading of the application and findings of fact; S. Annunziata seconded that motion and the Board voted unanimously on that motion. R. Spakauskas continued with the reading of a memo received from the Department of Public Works Engineer, Isabel McCauley, dated September 5, 2019, stating the following:

- Public sewer is available within the frontage of this lot
- Public water is not available within the frontage of this lot. However, if the owner desires to connect to public water an easement along Avery Rd (private section) is required for the service connection
- Any land disturbance greater than 20,000 square feet, associated with construction or reconstruction of structures, shall comply with the Town's Stormwater Management and Erosion Control Bylaw

R. Spakauskas then invited the petitioner to address the board. M. Conway gave a brief on the history of their petition before the Board noting in September, 2018 they appeared before the Board with a Variance request to build a single family home on 79 Avery Rd. and it was denied. Since then, an adoption of a bylaw amendment was passed through Town Meeting and with the submission of a Special Permit, M & J Conway may ask the Board to consider approving this request again.

The Board was familiar with this case and had no further comments. R. Spakauskas opened the hearing up to the public for comments but none were received. R. Spakauskas thanked everyone for attending and provided a review of the appeal period.

R. Fraser made a motion to vote and S. Annunziata seconded. The Board voted unanimously to APPROVE the SPECIAL PERMIT by a vote of 5-0 with the following conditions:

1. The applicant has proven this application meets the Zoning Warrant Article #28 from the May 20, 2019 Annual Town Meeting as follows:

Section IX. F. Any increase in area, frontage, or setback requirements; shall apply to any lot in a residential zoning district except to the extent that either the provisions of M.G.L. c. 40A Subsection 6 apply or the following provisions, provide otherwise. Any increase in area, frontage or setback requirements prescribed by the Town's zoning bylaw shall not apply to any lot in a residential district if all the following requirements are met and the Zoning Board of Appeals grants a special permit therefore after finding that it is not substantially more detrimental to the neighborhood than the existing nonconforming structure, use or lot.

1. At the time of recording or endorsement, the lot (a) conformed to the requirements in effect at the time of recording or endorsement, but did not conform to the increased requirements, and (b) had at least five thousand square feet of area, and (c) had at least fifty feet of frontage.
 2. The size or shape of the lot has not changed since the lot was created unless such change complied with present Town requirements for frontage, area and setbacks.
 3. Either (a) the lot was not held in common ownership at any time after May 15, 2000, with adjoining lot or lots that had continuous frontage with the lot in question, or (b) if the lot was held in common ownership at any time after May 15, 2000, with adjoining lot or lots that had continuous frontage with the lot in question, such lot had on it a single family or two-family dwelling.
2. The applicant must adhere to the comments submitted to the Zoning Board from the Department of Public Works, dated September 5, 2019 as referenced above.

The public hearing was closed at 7:58 p.m.

Ronald E. Spakauskas, Chairman