



# TOWN OF HOLDEN

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## ZONING BOARD OF APPEALS PUBLIC HEARING, September 12, 2019

**Lawrence & Patricia Popple**

**Case No. SP-1905**

The Zoning Board of Appeals held a public hearing on Thursday, September 12, 2019 at 7:58 p.m. in the Holden Senior Center on the Petition of Lawrence and Patricia Popple for properties located at 139 Twinbrooke Dr and 145 Twinbrooke Dr. to correct dimensional deficiencies.

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

Others in attendance: D. Lindberg – Building Commissioner, C. Perkins – Secretary, L. and P. Popple – 139 Twinbrooke Dr, Atty. J. Finkelstein – 19 Cedar St. Worcester, J. and S. Atchue – 140 Twinbrooke Dr.

R. Spakauskas reviewed the procedures for the hearing and continued with the reading of a memo received from the Department of Public Works Engineer, Isabel McCauley, dated September 9, 2019, stating the following:

- A drainage manhole is located within the frontage of 145 Twinbrooke Dr. We believe this manhole is located outside of the right of way (ROW) on private property. We ask that if the manhole lays within this parcel, an access easement be added to the plan and recorded with the deed for the purpose of maintaining the public drainage system.

R. Spakauskas then invited the petitioner/attorney to address the board. Atty. Finkelstein briefed the Board members on the history of the property and the status of the last hearing from June, 2018 in which the Popple's submitted a Variance request for both properties in which 139 Twinbrooke Dr. was approved and 145 Twinbrooke Dr. was denied. Since then, an adoption of a bylaw amendment was passed through Town Meeting and with a submission of a Special Permit, the Popple's may ask the Board to consider approving this petition request again. Atty. Finkelstein stated the previous decisions from 2018 were not recorded with the Worcester Registry of Deeds and stated in granting this request would complete the neighborhood.

The Board was familiar with this case and had no further comments or questions. R. Spakauskas thanked everyone and provided a review of the appeal period.

F. Lonardo made a motion to vote on the correction of the diminutive dimensional deficiencies for 139 Twinbrooke Dr. and S. Annunziata seconded. The Board voted to APPROVE the Special Permit by a unanimous vote of 5-0.

S. Annunziata made a motion to vote to grant relief on lot area to correct dimensional deficiencies for 145 Twinbrooke Dr. and R. Fraser seconded. The Board voted to APPROVE the Special Permit by a unanimous 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 9, 2019 as referenced above.

The public hearing was closed at 8:15 p.m.

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Ronald E. Spakauskas, Chairman