

*Town of Pepperell*  
**BOARD OF APPEALS**  
One Main Street  
Pepperell, Massachusetts 01463

**NOTICE OF DECISION**



**ZBA File No: 2021-02**

Notice is hereby given that a Zoning Board of Appeals Special Permit has been **granted**:

**To:** Tully Homes LLC

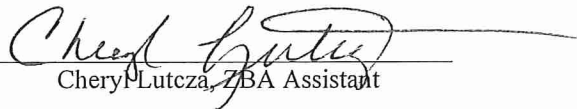
**For:** Special Permit

**Property Located at:** 5 Tucker Avenue, Pepperell, MA, as shown on Assessor's Map 23, as Parcel 5-0.

**Owned by:** Tully Homes LLC

This Decision of the Zoning Board of Appeals is on file with the papers on this matter in the office of the Town Clerk. Certified this the 20<sup>th</sup> day of July 2021:

Zoning Board of Appeals: \_\_\_\_\_

  
Cheryl Lutcza, ZBA Assistant

**RIGHT TO APPEAL:**

Appeals to this Decision are to the Court pursuant to the M.G.L., Chapter 40A, Section 17, and must be taken within twenty (20) days of the filing of this Decision with the Town Clerk.

**TOWN CLERK CERTIFICATION:**

I certify no appeal has been received within twenty (20) days of the filing of this notice in my office, or that if an appeal has been filed it has been dismissed or denied.

\_\_\_\_\_  
Brynn Montesanti, Town Clerk

**NOTICE TO APPLICANT:**

Having received certification from the Town Clerk, it shall be the responsibility of the Applicant to have recorded both this NOTICE OF DECISION and the SPECIAL PERMIT DECISION at the South Middlesex Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Fee for recording shall be paid by the owner or applicant. NO BUILDING PERMITS or CERTIFICATES OF OCCUPANCY shall be issued by the Building Inspector until notice of attestation by the Registry of Deeds is made to the Town Clerk by filing a copy of this notice with the recording date and document number noted.

**ATTESTATION:**

Received and entered with the Registry of Deeds in the County of Middlesex, South

ATTEST:

\_\_\_\_\_  
Register of Deeds



*Town of Pepperell*  
**BOARD OF APPEALS**  
One Main Street  
Pepperell, Massachusetts 01463

**DECISION**

**APPLICATION #:** 2021-02

**APPLICANT:** Tully Homes, LLC

**OWNER OF PROPERTY:** Tully Homes LLC

**LOCATION OF PROPERTY:** 5 Tucker Avenue

**RELIEF REQUESTED:** Special Permit

**DECISION OF BOARD:** Granted

**DATE OF DECISION:** July 1, 2021

**STATEMENT OF FACTS:**

Application submitted to Town Clerk: April 28, 2021

Cited Section(s) of the Zoning Chapter of the Code of the Town of Pepperell and any other applicable Zoning Law: 9221, 3530 and 9300.

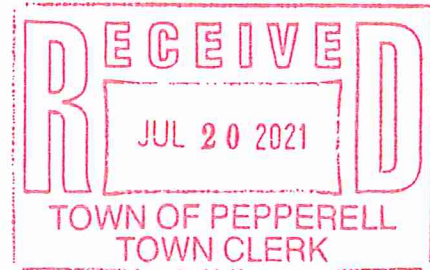
Application copied to the Assessor's Office, Building Inspector, Planning Board, Conservation Commission, Pepperell Police Department, Pepperell Fire Department, DPW Director, Highway Department, Board of Health, Water Department, Sewer Department, Communications Director, Treasurer/Collector, Historical Commission and Town Counsel: April 29, 2021

Dates of published Notice of Remote Public Hearing: June 11, 2021 and June 18, 2021 issues of the "Nashoba Valley Voice".

Notification of Parties in Interest: Mailed Notice of Remote Public Hearing to abutters and to the abutting towns of Groton, MA; Townsend, MA; Dunstable, MA; Brookline, NH; Hollis, NH; and Nashua, NH on June 10, 2021

Date of Remote Public Hearing: July 1, 2021

Board of Appeals Members present at Remote Public Hearing of July 1, 2021: Annette McLean, Alan Leao, Jr. and Heather Hampson. Also present, Cheryl Lutzca (Assistant to Zoning Board of Appeals).



**CONTENTS OF TOTAL APPLICATION:**

- Exhibit A: Certified List of Abutters – February 24, 2021
- Exhibit B: New Application Memo to ZBA Members – April 29, 2021
- Exhibit C: New Application Memo to Town Boards/Departments – April 29, 2021
- Exhibit D: Response from Assessor’s Office – April 29, 2021
- Exhibit E: Response from Fire Department – April 29, 2021
- Exhibit F: Response from Highway Department – April 29, 2021
- Exhibit G: Response from Conservation Commission – May 19, 2021
- Exhibit H: Response from DPW Director – June 2, 2021
- Exhibit I: Notice of Public Hearing – July 1, 2021
- Exhibit J: Response from Board of Health – June 14, 2021
- Exhibit K: Hearing and Fees Letter to Applicant – June 15, 2021
- Exhibit L: Legal Ad Copy from Nashoba Valley Voice – June 11, 2021
- Exhibit M: Response Memo to ZBA from C. Lutzca – June 22, 2021
- Exhibit N: Legal Notice Copy and Bill from Nashoba Valley Voice for June 11, 2021 and June 18, 2021
- Exhibit O: Email from Susan Tocci, DPW Office, confirming subject property is connected to both Town water and Town sewer – June 30, 2021
- Exhibit P: Remote Hearing Attendance Sheet – July 1, 2021

**FEES:**

Applicant(s) paid to the Town of Pepperell (1) a filing fee of \$115.00; (2) a postage fee in the amount of \$22.75, to notify Parties in Interest of the Remote Public Hearing and Decision; and (3) a fee to the “Nashoba Valley Voice” in the amount of \$411.84, for the legal advertising of the public notices.

**STATEMENT OF CASE:**

The Board of Appeals conducted a remote public hearing on July 1, 2021, regarding an application submitted by Tully Homes LLC, requesting a Zoning Board of Appeals **SPECIAL PERMIT**, under Sections 9221, 3530 and 9300 of the Town of Pepperell Zoning By-Law, which, if granted, would allow the alteration or change of a non-conforming structure. The Applicant is seeking approval to construct a single-family dwelling in the vicinity of the existing dwelling, a mobile home, which will be removed. The proposed building will be in conformance with the setback requirements in effect when the existing dwelling was placed on the site. As the lot is non-conforming due to lot area, a Zoning Board of Appeals Special Permit is required. Subject property is located at 5 Tucker Avenue, Pepperell, MA, as shown on Assessor's Map 23 as Parcel 5-0. The remote public hearing was held via GoToMeeting.

Doug Lees of Land Engineering & Environmental Services, Tyngsboro, MA, was present at the remote public hearing and addressed the Board on the Applicant’s behalf. There were abutters present at the remote public hearing. There were members of the public present at the remote public hearing. Motion was made, and all Board Members concurred, to **grant** the requested relief.

Details of the remote public hearing are available in the Zoning Board of Appeals Meeting Minutes of July 1, 2021. This remote public hearing was recorded for future broadcast by Pepperell Community Media, Inc.

**FINDINGS:**

1. The subject property is located at 5 Tucker Avenue, Pepperell, MA, as shown on Assessor's Map 23 as Parcel 5-0.
2. The subject property is in the Town Residence District.
3. Abutters were present at the remote public hearing.
4. Members of the public were present at the remote public hearing.
5. Subject property is serviced by municipal sewer (per DPW).
6. Subject property is serviced by municipal water (per DPW).
7. The proposed change is not substantially more detrimental than the existing non-conforming structure to the neighborhood.
8. In response to the abutter concern regarding the area being prone to flooding issues and in reference to Section 9325 of the Town of Pepperell Zoning By-law, the Board encourages the Applicant to take actions to minimize potential flooding impacts when installing the proposed driveway, including, as necessary or appropriate, installation of additional stormwater controls in and around the driveway.

**CONDITIONS:**

1. The Applicant shall apply for and obtain all necessary approvals and permits in accordance with all applicable state and local codes and regulations.
2. The Special Permit shall not be construed as exempting the Applicant from compliance with applicable building, environmental or sanitation regulations currently in force and effect.

**CONCLUSION:**

The Board of Appeals finds that the requested relief, a **SPECIAL PERMIT**, under Sections 9221, 3530 and 9300 of the Town of Pepperell Zoning By-Law, may be **granted** to allow the alteration or change of a non-conforming structure, in particular, the construction of a single-family dwelling in the vicinity of the existing dwelling, a mobile home, which will be removed. The proposed building will be in conformance with the setback requirements in effect when the existing dwelling was placed on the site. As the lot is non-conforming due to lot area, a Zoning Board of Appeals Special Permit is required. Subject property is located at 5 Tucker Avenue, Pepperell, MA, as shown on Assessor's Map 23 as Parcel 5-0.

**DECISION:**

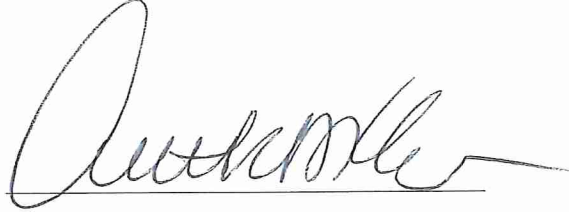
Based on the foregoing findings and conclusions, the Board **grants** the requested relief, a **SPECIAL PERMIT**, under Sections 9221, 3530 and 9300 of the Town of Pepperell Zoning By-Law, to allow the alteration or change of a non-conforming structure, in particular, the construction of a single-family dwelling in the vicinity of the existing dwelling, a mobile home, which will be removed. The proposed building will be in conformance with the setback requirements in effect when the existing dwelling was placed on the site. As the lot is non-conforming due to lot area, a Zoning Board of Appeals Special Permit is required. Subject property is located at 5 Tucker Avenue, Pepperell, MA, as shown on Assessor's Map 23 as Parcel 5-0.

**So decided this the 1<sup>st</sup> day of July 2021 by roll call vote as listed:**

Annette McLean:	Aye
Alan Leao, Jr.:	Aye
Heather Hampson:	Aye

**CERTIFICATIONS:**

We, the undersigned members of the Board of Appeals of the Town of Pepperell, certify that we attended and participated in all of the hearings, the decision and the order of the above matter, that said hearings and decision were made at public meetings of the Board and that we made the foregoing decision with the undersigned members voting by roll call vote.



Annette McLean



Alan Leao, Jr.



Heather Hampson

**ASSISTANT TO THE BOARD OF APPEALS:**

A copy of this decision was transmitted to the Town Clerk on: July 20, 2021



Cheryl Lutcza, Assistant to the Board of Appeals

