

Middlesex South Registry of Deeds  
Electronically Recorded Document

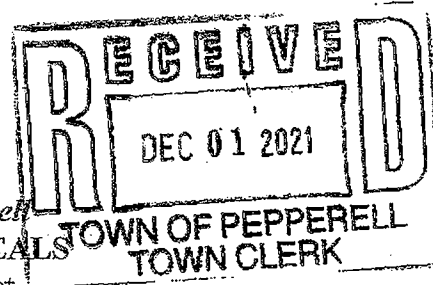
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Recording Information

Document Number	: 7029
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Recorded Book and Page	: 79528 / 260
Number of Pages(including cover sheet)	: 8
Receipt Number	: 2771713
Recording Fee	: \$105.00

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)



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

**NOTICE OF DECISION**

ZBA File No: 2021-05

Notice is hereby given that Zoning Board of Appeals Variances (8) have been **granted**:

To: Clark's Retirement Park LLC

For: Variances (8)

Property Located at: 4 Mason Street, Pepperell, MA, as shown on Assessor's Tax Map 20 as Parcel 100-0

Owned by: Clark's Retirement Park, 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 1<sup>st</sup> day of December 2021:

Zoning Board of Appeals: Cheryl Libbeza  
Cheryl Libbeza, 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 C. Durno  
Brynn Durno, 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 VARIANCES 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

Deed Ref: Book 69656 Page 437



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

**DECISION**

**APPLICATION #:** 2021-05

**APPLICANT:** Clark's Retirement Park LLC

**OWNER OF PROPERTY:** Clark's Retirement Park LLC

**LOCATION OF PROPERTY:** 4 Mason Street, Pepperell, MA

**RELIEF REQUESTED:** Variances (8)

**DECISION OF BOARD:** Granted

**DATE OF DECISION:** November 3, 2021

**STATEMENT OF FACTS:**

Application submitted to Town Clerk: September 20, 2021

Cited Section(s) of the Zoning Chapter of the Code of the Town of Pepperell and any other applicable Zoning Law: 9222, 4140, 4230 and 4234

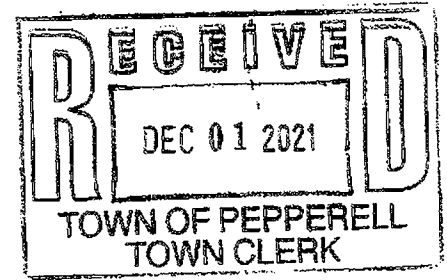
Application copied to the Assessor's Office, Board of Health, Communications Director, Conservation Commission, DPW Business Manager, DPW Director/Town Engineer, Fire Department, Highway Department, Historical Commission, Inspector of Buildings, Planning Board, Police Department, Sewer Department, Town Counsel, Treasurer/Collector, and Water Department: September 21, 2021

Dates of published Notice of Public Hearing: October 15, 2021 and October 22, 2021 issues of the "Nashoba Valley Voice".

Notification of parties in Interest: Mailed Notice of Public Hearing to abutters and to the abutting towns of Groton, MA; Townsend, MA; Dunstable, MA; Brookline, NH; Hollis, NH; and Nashua, NH on October 13, 2021.

Date of Remote Public Hearing: November 3, 2021

Board of Appeals Members present at the remote Public Hearing of November 3, 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 – April 28, 2021
Exhibit B:	New Application Memo to ZBA Members – September 21, 2021
Exhibit C:	New Application Memo to Town Boards/Departments – September 21, 2021
Exhibit D:	Response from Planning Board – September 22, 2021
Exhibit E:	Response from Conservation Commission – September 25, 2021
Exhibit F:	Response from Board of Health – September 21, 2021
Exhibit G:	Response from Highway Department – September 21, 2021
Exhibit H:	Response from Assessor's Office - September 21, 2021
Exhibit I:	Notice of Public Hearing – November 3, 2021
Exhibit J:	Response from Fire Department – September 21, 2021
Exhibit K:	Hearing and Fees Letter to Applicant – October 18, 2021
Exhibit L:	Legal Notice Copy from Nashoba Valley Voice – October 15, 2021
Exhibit M:	Response from Historical Commission – September 21, 2021
Exhibit N:	Response Memo to ZBA from C. Lutzca – October 27, 2021
Exhibit O:	Legal Notice Copy from Nashoba Valley Voice – October 22, 2021
Exhibit P:	Response from Town Counsel – October 25, 2021
Exhibit Q:	Remote Hearing Attendance Sheet – November 3, 2021

**FEEES:**

Applicant paid to the Town of Pepperell (1) filing fees of \$115.00; (2) a postage fee in the amount of \$50.36, to notify Parties in Interest of the Public Hearing and Decision; and (3) a fee to the "Nashoba Valley Voice" in the amount of \$485.76, for the legal advertising of the public notices.

**STATEMENT OF CASE:**

The Board of Appeals conducted a remote public hearing on November 3, 2021, regarding an application has been submitted by Clark's Retirement Park, LLC, requesting 8 (eight) **VARIANCES**, under Sections 9222, 4140, 4230 and 4234 of the Town of Pepperell Zoning Bylaw to allow the following: In reference to "Lot 1" (single-family house lot), the Applicant requests the following: to allow a lot area of 60,293 sq. ft. instead of the required 80,000 sq. ft.; the dwelling to have a rear yard setback of 46 ft. instead of the required 60 ft.; the "shed behind barn" to have a rear-yard setback of 37 ft. instead of the required 60 ft.; the "shed by pool" to have a rear-yard setback of 43 ft. instead of the required 60 ft.; and the "barn" to have a rear yard setback of 59 ft. instead of the required 60 ft. In reference to "Lot 2" (mobile home park), the Applicant requests the following: to allow a lot shape factor of 0.31 instead of the required 0.40; a mobile home to have a side yard setback of 21 ft. instead of the required 25 ft.; and a shed to have a side-yard setback of 3 ft. instead of the required 25 ft. The Applicant desires to separate the existing single-family dwelling and accessory structures, owned and occupied by the Applicant, from the retirement mobile home park, also owned by the Applicant. Subject property is located at 4 Mason Street, Pepperell, MA, as shown on Assessor's Map 20 as Parcel 100-0. A public hearing will be held on this matter on November 3, 2021, at 7:20P.M. The remote public hearing was held via GoToMeeting.

Applicant, Clark's Retirement Park LLC (George Clark), was present at the remote public hearing. Also present, was Jack Visniewski, P.E., of J.A. Visniewski, L.L.C., Pepperell, MA, who addressed the Board (on the Applicant's behalf) regarding the relief being requested. There were no abutters present at the remote public hearing. There were no members of the public present at the remote public hearing. Motion was made, and all Board Members concurred, to grant the requested relief, eight (8) variances.

Details of the remote public hearing are available in the Zoning Board of Appeals Meeting Minutes of November 3, 2021. This remote public hearing was recorded for future broadcast by Pepperell Community Media, Inc.

**FINDINGS:**

1. The subject property is located at 4 Mason Street, Pepperell, MA, as shown on Assessor's Map 20 as Parcel 100-0.
2. The property is located in the Town Residence District.
3. Abutters were not present at the remote public hearing.
4. Members of the public were not present at the remote public hearing.
5. Subject property is serviced by municipal water.
6. Subject property is serviced by municipal sewer.
7. A Variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Pepperell Zoning-Bylaw for "Lot 1" (single-family house lot), to allow a lot area of 60,293 sq. ft. instead of the required 80,000 sq. ft.
8. A Variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Pepperell Zoning-Bylaw for "Lot 1" (single-family house lot), to allow the dwelling to have a rear yard setback of 46 ft. instead of the required 60 ft.
9. A Variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Pepperell Zoning-Bylaw for "Lot 1" (single-family house lot), to allow the "shed behind barn" to have a rear-yard setback of 37 ft. instead of the required 60 ft.
10. A Variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Pepperell Zoning-Bylaw for "Lot 1" (single-family house lot), to allow the "shed by pool" to have a rear-yard setback of 43 ft. instead of the required 60 ft.

11. A Variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Pepperell Zoning-Bylaw for "Lot 1" (single-family house lot), to allow the "barn" to have a rear yard setback of 59 ft. instead of the required 60 ft.
12. A Variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Pepperell Zoning-Bylaw for "Lot 2" (mobile home park), to allow a lot shape factor of 0.31 instead of the required 0.40.
13. A Variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Pepperell Zoning-Bylaw for "Lot 2" (mobile home park), to allow a mobile home to have a side yard setback of 21 ft. instead of the required 25 ft.
14. A Variance may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Pepperell Zoning-Bylaw for "Lot 2" (mobile home park), to allow a shed to have a side-yard setback of 3 ft. instead of the required 25 ft.
15. As required by Section 9320 of the Town of Pepperell Zoning Bylaw, the use will not cause substantial detriment to the Town or neighborhood.
16. Compliance with the Town of Pepperell Zoning By-law, due to circumstances particular to the land, relating to shape and existing structures, would create a substantial hardship.

**CONDITIONS:**

1. The Applicants shall apply for and obtain all necessary permits, and all construction shall be in accordance with all applicable state and local codes and regulations.
2. The granting of these dimensional variances under the Pepperell Zoning By-law does not relieve the Applicants of the responsibility of complying with all other state and local statutes and regulations affecting the premises.
3. The variances granted are limited to the specific size and type of structures as shown on the plan submitted and any future modifications may be subject to a new variance.

**CONCLUSION:**

The Board of Appeals finds that the Applicant desires to separate the existing single-family dwelling and accessory structures, owned and occupied by the Applicant, from the retirement mobile home park, also owned by the Applicant, on the subject property located at 4 Mason Street, Pepperell, MA, as shown on Assessor's Map 20 as Parcel 100-0. The Board of Appeals also finds that the requested relief, 8 (eight) **VARIANCES**, under Sections 9222, 4140, 4230 and 4234 of the Town of Pepperell Zoning Bylaw to allow the following: In reference to "Lot 1" (single-family house lot), the Applicant requests the following: to allow a lot area of 60,293 sq. ft. instead of the required 80,000 sq. ft.; the dwelling to have a rear yard setback of 46 ft. instead of the required 60 ft.; the "shed behind barn" to have a rear-yard setback of 37 ft. instead of the required 60 ft.; the "shed by pool" to have a rear-yard setback of 43 ft. instead of the required 60 ft.; and the "barn" to have a rear yard setback of 59 ft. instead of the required 60 ft. In reference to "Lot 2" (mobile home park), the Applicant requests the following: to allow a lot shape factor of 0.31 instead of the required 0.40; a mobile home to have a side yard setback of 21 ft. instead of the required 25 ft.; and a shed to have a side-yard setback of 3 ft. instead of the required 25 ft., will not be detrimental to the public good, will not nullify or substantially derogate from the intent or purpose of the Town of Pepperell Zoning-Bylaw, and owing to the circumstances of the land, relating to shape and the existing structures would create substantial hardship, and therefore may be granted.

**DECISION:**

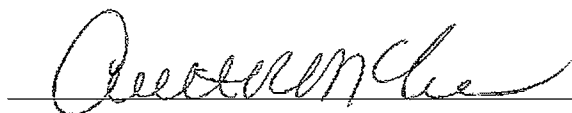
Based on the foregoing findings and conclusions, the Board **grants** the requested relief, 8 (eight) **VARIANCES**, under Sections 9222, 4140, 4230 and 4234 of the Town of Pepperell Zoning Bylaw to allow the following: In reference to "Lot 1" (single-family house lot), the Applicant requests the following: to allow a lot area of 60,293 sq. ft. instead of the required 80,000 sq. ft.; the dwelling to have a rear yard setback of 46 ft. instead of the required 60 ft.; the "shed behind barn" to have a rear-yard setback of 37 ft. instead of the required 60 ft.; the "shed by pool" to have a rear-yard setback of 43 ft. instead of the required 60 ft.; and the "barn" to have a rear yard setback of 59 ft. instead of the required 60 ft. In reference to "Lot 2" (mobile home park), the Applicant requests the following: to allow a lot shape factor of 0.31 instead of the required 0.40; a mobile home to have a side yard setback of 21 ft. instead of the required 25 ft.; and a shed to have a side-yard setback of 3 ft. instead of the required 25 ft. The Applicant desires to separate the existing single-family dwelling and accessory structures, owned and occupied by the Applicant, from the retirement mobile home park, also owned by the Applicant. Subject property is located at 4 Mason Street, Pepperell, MA, as shown on Assessor's Map 20 as Parcel 100-0.

**So decided this 3<sup>rd</sup> day of November 2021 by roll call vote as listed:**

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

**CERTIFICATIONS:**

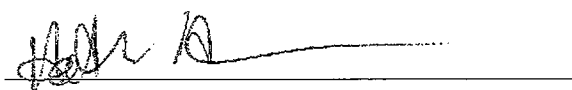
We, the undersigned members of the Board of Appeals of the Town of Pepperell, certify that we attended and participated in all of the hearings, the decision and the order of the above matter, that said hearings and decision were made at public meetings of the Board and that we made the foregoing decision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



Annette McLean



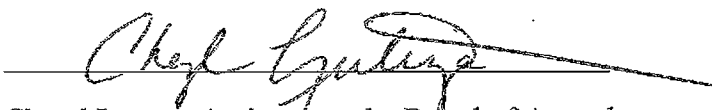
Alan Leao, Jr.



Heather Hampson

**ASSISTANT TO THE BOARD OF APPEALS:**

A copy of this decision was transmitted to the Town Clerk on: December 1, 2021



Cheryl Lutzka, Assistant to the Board of Appeals

