



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

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Town of Pepperell
Office of the Town Clerk

NOTICE OF DECISION

ZBA File No: 2022-08

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

To: Cheri Leach

For: Special Permit to allow an Accessory Apartment

Property Located at: 5 Elm Street, Pepperell, MA, as shown on Assessor's Map 21 as Parcel 67-0

Owned by: Cheri Leach

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 25th day of October 2022:

Zoning Board of Appeals: 
Cheryl Lutczka, 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 Durno, Town Clerk

NOTICE TO APPLICANT:

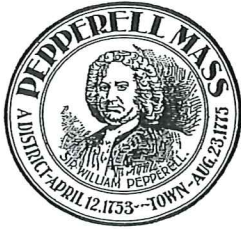
Having received certification from the Town Clerk, it shall be the responsibility of the Applicant to have recorded both this NOTICE OF DECISION and the SPECIAL PERMIT DECISION at the South Middlesex Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded 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 #: 2022-08

APPLICANT: Cheri Leach

OWNER OF PROPERTY: Cheri Leach

LOCATION OF PROPERTY: 5 Elm Street, Pepperell, MA

RELIEF REQUESTED: Special Permit (to allow an accessory apartment)

DECISION OF BOARD: Granted

DATE OF DECISION: October 12, 2022

STATEMENT OF FACTS:

Application filed with the Town Clerk: August 23, 2022

Cited Section(s) of the Zoning Chapter of the Code of the Town of Pepperell and any other applicable Zoning Law: 9300, 9221, 3400-3440.

Application copied to the Assessor's Office, Board of Health, Communications Director, Conservation Commission, DPW Director/Town Engineer, DPW Business Manager, Fire Department, Highway Department, Historical Commission, Inspector of Buildings, Planning Board, Police Department, Sewer Department, Town Counsel, Treasurer/Collector, and Water Department: August 25, 2022

Dates of published Notice of Public Hearing: September 23, 2022 and September 30, 2022 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 September 16, 2022.

Date of Remote Public Hearing: October 12, 2022

Board of Appeals Members present at the remote Public Hearing of October 12, 2022:

Annette McLean (Chair), Sean McCaffery (Full Member,) and Clifton James (Associate Member). Also present, Cheryl Lutzca (Assistant to Zoning Board of Appeals). Not Present: Heather Hampson Associate Member.

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CONTENTS OF TOTAL APPLICATION:

Exhibit A:	Certified List of Abutters Pepperell – July 6 2022
Exhibit B:	New Application Memo to ZBA Members – August 25, 2022
Exhibit C:	New Application Memo to Town Boards/Departments – August 25, 2022
Exhibit D:	Response from Treasurer-Collector – August 26, 2022
Exhibit E:	Response from Conservation Commission – September 1, 2022
Exhibit F:	Response from DPW Director – September 1, 2022
Exhibit G:	Response from Assessor’s Office – September 6, 2022
Exhibit H:	Notice of Public Hearing for October 12, 2022
Exhibit I:	Hearing and Fees Letter to Applicant – September 22, 2022
Exhibit J:	Legal Notice Copy from Nashoba Valley Voice – September 23, 2022
Exhibit K:	Response from DPW – September 27, 2022
Exhibit L:	Response from Board of Health – September 28, 2022
Exhibit M:	Response from Historical Commission – September 27, 2022
Exhibit N:	Response Memo to ZBA from C. Lutcza – October 5, 2022
Exhibit O:	Legal Notice Copy from Nashoba Valley Voice – September 30, 2022
Exhibit P:	Remote Hearing Attendance Sheet – October 12, 2022

FEES:

Applicant paid to the Town of Pepperell (1) filing fees of \$115.00; (2) a postage fee in the amount of \$25.65, to notify Parties in Interest of the Public Hearing and Decision; and (3) a fee to the “Nashoba Valley Voice” in the amount of \$280.91, for the legal advertising of the public notices.

STATEMENT OF CASE:

The Board of Appeals conducted a remote public hearing on October 12, 2022, regarding an application submitted by Cheri Leach, requesting a Zoning Board of Appeals **SPECIAL PERMIT**, under Sections 9300, 9221 and 3400-3440 of the Town of Pepperell Zoning Bylaw, which if granted, would allow a new accessory apartment to be located in the primary residential structure via an attached atrium. Subject property is located at 5 Elm Street, Pepperell, MA, as shown on Tax Map 21 as Parcel 67-0. The remote public hearing was held via the GoTo meeting platform.

Applicant, Cheri Leach, was present at the remote public hearing and addressed the Board regarding the relief being requested. There were no 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, a Special Permit to allow an accessory apartment.

Details of the remote public hearing are available in the Zoning Board of Appeals Meeting Minutes of October 12, 2022. This remote public hearing was recorded for future broadcast by Pepperell Community Media, Inc.

FINDINGS:

1. The subject property is located at 5 Elm Street, Pepperell, MA, as shown on Tax Map 21 as Parcel 67-0.
2. The property is located in the Town Residence District.
3. Abutters were not present at the remote public hearing. Members of the public were present at the remote public hearing.
4. Subject property is serviced by municipal water per Board of Health memo dated September 28, 2022.
5. Subject property is serviced by municipal sewer per Board of Health memo dated September 28, 2022.
6. Pursuant to Sections 3400-3440 of the Town of Pepperell Zoning Bylaw, the Board finds that the requested relief meets the Special Permit Criteria for Accessory Apartments [Note: Criteria in *Italic*, Finding in plain text]:
7. *The Board finds that pursuant to Section 3431 of the Town of Pepperell Zoning By-law, a Plot Plan was submitted.* The Applicant submitted a Certified Plot Plan, dated June 30, 2022, by Dillis & Roy Civil Design Group, Lunenburg, MA.
8. *The Board finds that Pursuant to Section 3432 of the Town of Pepperell Zoning By-law, an Affidavit of Owner-Occupancy has been submitted stating that one of the two dwelling units shall be occupied by the owner of the property except for bona fide temporary absence.* The Applicant submitted a signed Affidavit of Owner Occupancy, dated August 11, 2022, with the application.
9. *The Board finds that the proposed accessory apartment has a gross floor area of less than 800 square feet and shall be located in the principal residential structure on the premises thereby meeting the criterion under Section 3433 of the Town of Pepperell Zoning By-law.* The applicant provided a floor plan of the proposed accessory apartment, with the application, that showed the accessory apartment will not exceed 800 square feet and provided a plan depicting that the accessory apartment will be located within the primary residential structure.
10. *The Board finds that as required by Section 3434 of the Town of Pepperell Zoning Bylaw, the external appearance of the structure in which the accessory apartment is to be located will not be significantly altered from the appearance of a single-family structure.* The Applicant provided pictures/sketches of the external structure of the property, with the application, showing that the external appearance of the structure will not be significantly altered from the appearance of a single-family structure.
11. *The Board finds that as required by Section 3435 of the Town of Pepperell Zoning Bylaw, there is sufficient and appropriate space for at least (1) additional parking space to serve the accessory apartment.* The Applicant provided evidence that there is at least (1) additional parking space to serve the accessory apartment.
12. *The Board finds that pursuant to Sections 3440 of the Town of Pepperell Zoning Bylaw, the existence and occupancy of the accessory apartment will not be detrimental to the neighborhood and is in harmony with the general purpose and intent of the Zoning Bylaw.* The Applicant stated in the application that the proposed accessory apartment will provide safe, affordable independent living space. The proposed accessory apartment addition will match the existing home and blend in nicely and will have no impact on the residential area in which the subject property is located in regard to traffic flow and safety, the natural environment.

13. *The Board finds that pursuant to Sections 9320-9326 of the Town of Pepperell Zoning Bylaw, the application as presented meets all the criteria as required.*

1. *Social, economic, or community needs which are served by the proposal.* The Applicant has stated that the accessory apartment will provide safe, affordable independent living space for an elderly parent.
2. *Traffic flow and safety, including parking and loading.* The Applicant has stated that a parking area is designated for the accessory apartment and traffic will not be impacted by the introduction of one car on Elm Street.
3. *Adequacy of utilities and other public services.* The Applicant has stated that the subject property is serviced by municipal water and municipal sewer.
4. *Neighborhood characteristics and social structures.* The subject property is located in a residential neighborhood with older homes set back from the public way.
5. *Impacts to the natural environment; and.* The proposed accessory apartment will not have any impact on the natural environment.
6. *Potential fiscal impact, including impact on town services, tax base, employment and property values.* None. The value of the property will be enhanced and taxes reflective of the increased value. No town services or employment will be impacted by this addition.

CONDITIONS:

1. The Applicant 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 accessory apartment shall be maintained in accordance with all applicable state and local codes and regulations.
3. The Applicant shall obtain an occupancy permit prior to any occupancy of the accessory apartment.
4. The accessory apartment shall be located only in the existing residence as shown on the plans submitted with the application.
5. The accessory apartment shall be constructed in substantial conformance with the plans submitted with the application.
6. One of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absence(s). If neither unit is owner-occupied, the special permit shall lapse.
7. The owner shall provide one (1) additional parking space at all times to serve the accessory apartment, which shall have vehicular access to the driveway.

CONCLUSION:

The Board of Appeals finds that the requested relief, a **SPECIAL PERMIT**, under Sections 9300, 9221 and 3400-3440 of the Town of Pepperell Zoning Bylaw, to allow a new accessory apartment with a gross floor area of less than 800 square feet, to be located in the primary residential structure via an attached atrium at the subject property located at 5 Elm Street, Pepperell, MA, as shown on Map 21 as Parcel 67-0, is consistent with the purpose and conditions for such use, as set forth in the Town of Pepperell Zoning By-law, Section 3400, and therefore the requested relief may be **granted**.

DECISION:

Based on the foregoing findings and conclusions, the Board **grants** the requested relief, a **SPECIAL PERMIT**, under Sections 9300, 9221, 3400-3440 of the Town of Pepperell Zoning Bylaw, to allow a new accessory apartment with a gross floor area of less than 800 square feet to be located in the primary residential structure via an attached atrium at the subject property located at 5 Elm Street, Pepperell, MA, as shown on Map 21 as Parcel 67-0.

So decided this 12th day of October 2022 by roll call vote as listed:

Annette McLean: Aye

Sean McCaffery: Aye

Clifton James: Aye

RECORD OF VOTE


The members of the Board of Appeals of the Town of Pepperell, attended and participated in all of the hearings, the Decision and the order of the above matter. Said hearings and Decision were made at public meetings of the Board and the foregoing Decision was made with the members voting by roll call vote.

The Zoning Board of Appeals, voted unanimously to **grant** this Special Permit subject to the above-stated terms and authorized the Chair of the Board to sign on its behalf.



Annette McLean, Chair of the Board of Appeals

A copy of this Decision was transmitted to the Town Clerk on: October 25, 2022



Cheryl Lutzka, Assistant to the Board of Appeals

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