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THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF LUNENBURG
ZONING BOARD OF APPEALS

January 14, 2014

Special Permit for Dimensional Variation

A Special Permit for Dimensional Variation was granted to 163 Island Road Realty Trust, Joseph & Amanda Levine, 163 Island Road, Lunenburg, MA 01462 under the Lunenburg Protective Zoning By-Law Sections 7.2.1.2., 5.2.7.1 and 5.3.1.2. The petitioners were seeking a Special Permit for Dimensional Variation for the razing and new construction of a home and to add a second story to an existing garage that will be attached to the new dwelling. The applicants were also seeking relief for building height and for a side setback. The subject property is located at **163 Island Road, Lunenburg, MA 01462, and owned by 163 Island Road Realty Trust, Joseph & Amanda Levine, 163 Island Road, Lunenburg, MA 01462.**

The Board of Appeals of the Town of Lunenburg hereby certifies that a Special Permit for Dimensional Variation has been granted pursuant to the Protective Zoning By-Law of the Town of Lunenburg, Sections 7.2.1.2., 5.2.7.1 and 5.3.1.2.

Board Members present: Donald F. Bowen, Chairman, Raymond Beal, James Besarkarski, Alfred Gravelle, Hans Wentrup and (Paul Doherty present but not voting).

A Special Permit for Dimensional Variation has been issued to 163 Island Road Realty Trust, Joseph & Amanda Levine, 163 Island Road, Lunenburg, MA 01462 affecting the rights of the owner with respect to land and buildings at 163 Island Road, Lunenburg, MA 01462 Book 8027, Page 205 and dated October 29, 2013 as described in plans submitted with the petition. Assessors Map 23, Lot 7.

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said decision, and all plans referred to in the decision, have been filed with the Planning Board and the Town Clerk.

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The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed, that it has been dismissed or denied, is recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering.

DISCUSSION

Lisa Normandin read the petition into the public record and two letters of support received via e-mail.

Bruce Ringwall of Goldsmith, Prest and Ringwall, Inc. of Ayer MA represented the petitioners. Mr. Ringwall prepared the site plan and sewage disposal plan for the petitioners. He presented the plan to the Board and outlined the areas in which relief needed to be sought. The proposal is to remove the existing home keep the existing detached garage and add a second floor to the garage and attach it to the new home. Because the parcel is pre-existing nonconforming, the height and setback encroachment of the new dwelling will be out of compliance with current regulations therefore putting them in front of the Board.

In their application the homeowners indicated that they were renting the property for two years and purchased it in October of 2013. The home was originally built as a camp and was subsequently raised up with a new foundation and second story was added prior to their renting it. There are many electrical issues and the home is energy inefficient. The petitioners wish to remain in Lunenburg and are established in the neighborhood and in Town. Their desire is to remain on the lake and raise their growing family.

The Building Official, Michael Sauvageau wrote the applicants a letter indicating their need to go before the Appeals Board and where the variations were needed with regard to the new construction. However the letter was confusing to the Board members as there was no site plan attached it detailing the required heights and setbacks. Mr. Sauvageau was in the audience and showed the Board exactly what variations were needed and why. The Board was satisfied that if the petition were granted it would be conditioned that all construction meets the specifications outlined in his letter and shown on the site plan. Mr. Sauvageau explained to the Board that after the new construction was complete an "As Built" plan is required to insure that it was built in accordance with the submitted building and site plans. The petitioners already have the approval from both the Conservation Commission and the Board of Health with regard to the upgrade. The home will be served by municipal water.

Speaking in favor of the petition was David MacDonald of 155 Island Road, Lunenburg. Mr. MacDonald explained that as the closest abutter he is in support of the petitioners' application, he explained that Mr. Levine has served on a Town Board and his wife is very active in the Lake Management group at Hickory Hills. Michael Nault of 56 Brookview Terrace also spoke in support. While Mr. Nault lives across the cove from the subject property he felt that by improving the home it would bring up property values in the area and felt it would be a "win win" situation for all involved.

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MOTION

After due deliberation Alfred Gravelle made a motion to grant the Special Permit for Dimensional Variation to allow the razing and reconstruction of a new home and garage addition in accordance with the plans submitted and subsequently on file with the Zoning Board of Appeals in accordance with By-law Sections 7.4. for the non-conforming structure, 5.3.1.2 for the height and 5.2.7.1 for the setback. The motion was based on the finding that it would not be more substantially detrimental to the neighborhood as outlined below. James Besarkarski seconded the motion.

FINDINGS

In granting the Special Permit for Dimensional Variation the Board of Appeals specifically found:

- a. The specific site is an appropriate location for such building or alteration.
- b. The proposed building or alteration is compatible with the existing neighborhood with regard to size, location and architecture.
- c. The granting of the special permit and special permit for dimensional variation will not adversely affect the neighborhood.
- d. The granting of the special permit and special permit for dimensional variation will not unreasonably diminish the available light, air, sunlight and other amenities: and there will be no nuisance or serious hazard to vehicles or pedestrians as outlined in Sections 7.2.1.2.

The Special Authorization is granted with the contingency that 163 Island Road Realty Trust, Joseph & Amanda Levine comply with all licenses, regulations, statues and ordinances of any and all applicable state, local and federal board or agencies with jurisdiction over the premises.

The Special Permit is subject to a periodic review by the permit granting authority (Zoning Board) or the Enforcement Officer, to insure compliance with the enumerated conditions. Non-compliance to these conditions may result in revocation of this permit.

After closing the discussion, the Board acting in its capacity as the Special Permit Granting Authority, granted the Special Permit Dimensional Variation with the above members present and voting as follows with respect to the issuance of the Special Permit.

VOTE

Donald Bowen voted in favor of granting the Special Permit Dimensional Variation.
Raymond Beal voted in favor of granting the Special Permit Dimensional Variation.
James Besarkarski voted in favor of granting the Special Permit Dimensional Variation.
Hans Wentrup voted in favor of granting the Special Permit Dimensional Variation.
Alfred Gravelle voted in favor of granting the Special Permit Dimensional Variation.

In making this determination, the Board specifically found that the granting of this Special Permit for Dimensional Variation would not contravene the purpose of the Protective Bylaws or the provisions of Chapter 40A of the Massachusetts General Laws.

Voted and executed,



Donald F. Bowen, Chairman 1/14/2014 Date

Lunenburg Zoning Board of Appeals
Special Permit Granting Authority

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