



TOWN OF HINGHAM
Board of Appeals



**NOTICE OF DECISION
VARIANCE**

IN THE MATTER OF:

Applicant/ Owner: 135137 South Street, LLC
c/o Heidi Ragone
131 South Street
Hingham, MA 02043

Property: 135-137 South Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 55783, Page 218

Plan Reference: "Condominium Site Plan for 135-137 South Street in Hingham, Mass.,"
prepared by Neponset Valley Survey Assoc., Inc., 95 White Street, Quincy,
MA, dated May 2, 2016 and received November 3, 2021 (2 Sheets)

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of Heidi Ragone (the "Applicant") for a Variance from § IV-A of the Zoning By-Law (the "By-Law") and such other relief as necessary to relocate an existing two-family dwelling, resulting in a 20' front yard setback where 25' is required and 21.3' exists, while eliminating a nonconforming side yard setback, at 135-137 South Street in Residence District A.

The Board opened a duly noticed public hearing on the application at a meeting held remotely on December 14, 2021 via Zoom as an alternate means of public access pursuant to Chapter 20 of the Acts of 2021 temporarily amending certain provisions of the Open Meeting Law. The Board panel consisted of regular members Robyn S. Maguire, Chair, and Paul K. Healey and associate member Jed Ruccio. The Applicant appeared to present the request. At the conclusion of the review, the Board voted unanimously to grant the requested relief.

Throughout its deliberations, the Board has been mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public hearing.

BACKGROUND

The subject property consists of 17,883 SF of land located on the north side of South Street. The site is bound to the rear by the MBTA commuter rail line. While the west side and rear property lines meet more or less at a right angle, all others do not, resulting in a lot shape that resembles a trapezoid. A two-family dwelling (ca. 1888) occupies the western side of the property, which is less deep than the right side due to the irregular lot line lengths. The dwelling location is nonconforming with respect to side yard (6.6') and front yard (21.3') setbacks.

The Applicant represented that the existing dwelling has experienced significant settlement (18"). They engaged an engineer to complete soil test borings. The geotechnical analysis concluded that the existing onsite soils (consisting of fill and organic soils to depths of 10-28.5+/- feet) are unsuitable for support of the structure. The engineer recommended relocating the structure to an area with less peat and supporting the relocated structure on a deep foundation system or piles. The most appropriate location is closer to and more centrally located along the front property line. Since the lot depth increases from west to east, the proposed incursion is just 1.3' greater than the existing incursion into the front yard. The proposed project will conversely eliminate the existing nonconforming side yard setback.

FINDINGS

Based on the information submitted and presented during the review, and the deliberations and discussions of the Board during the meetings, the Board made the following findings in accordance with the approval criteria under § I-D, 2.c of the By-Law:

1. **Circumstances related to soil, shape, or topography especially affect the land or structures in question:** Unusual shape and soil conditions distinguish the property from most others in Residence District A. The lot shape resembles a trapezoid with a shallower depth on the west side than the left. Onsite soil conditions are poor, particularly towards the rear of the lot. Test borings confirmed a significant amount of fill and organic material, which caused the existing two-family dwelling to settle approximately 18". These circumstances especially affect the subject property and not generally the zoning district.
2. **The literal enforcement of the By-Laws would involve substantial hardship financial or otherwise.** Literal enforcement the By-Law would prevent the applicant from supporting the existing dwelling on a deep foundation with piles in a location on the property with better soils. Absent relief, the structure would continue to settle.
3. **A Variance may be granted without substantial detriment to the public good.** There will be no adverse effects on the neighborhood and there will be no harm to the public good resulting from the proposed relocation of the existing dwelling on the property. Conversely, relocation will allow for the restoration and long term preservation of the historic dwelling.

4. **A Variance may be granted without nullifying or substantially derogating from the intent or purposes of the By-Law.** The requested relief, at just 1.3' beyond that otherwise allowed by right under § III-I, 2 of the By-Law, is de minimis in nature. The proposed project will also eliminate an existing nonconforming side yard setback. Granting a dimensional variance in this instance will allow for a reasonable use of the property that is consistent with the residential uses in the neighborhood and Residence District A.

DECISION

Upon a motion made by Paul K. Healey and seconded by Jed Ruccio, the Board voted unanimously to grant a Variance from § IV-A of the By-Law, and such other relief as necessary, to relocate an existing two-family dwelling, resulting in a 20' front yard setback where 25' is required and 21.3' exists, while eliminating a nonconforming side yard setback, at 135-137 South Street in Residence District A, subject to the following condition:

1. The proposed work shall be completed in a manner consistent with the approved plans and the representations made at the hearings before the Board.
2. The Applicant shall submit a site plan, prepared by the Professional Land Surveyor, with the application for a building permit to verify that the proposed location of the dwelling will be no closer than 20' to the front property line.

For the Board of Appeals,



Robyn S. Maguire, Chair
January 19, 2022

This Decision shall not become effective until (i) the Town Clerk has certified on a copy of this decision that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, that it has been dismissed or denied, and that (ii): a copy thereof has been duly recorded in the Plymouth County Registry of Deeds and indexed in the grantor index under the name of the owner of record.