



TOWN OF BOLTON

ZONING BOARD OF APPEALS

Town Hall, 663 Main Street, Bolton, MA 01740

Phone: 978-779-3308 Fax: 978-779-5461

VARIANCE FINDINGS AND DECISION

Petitioner: Wachusett Realty, LLC
200 Church Street
Clinton, MA 01510

Premises: 562 Main Street, Bolton, MA 01740
Bolton Assessor's Map 4.C Parcel 35

Owner: R. Lee Bracy, Jr.
P.O. Box 189
Bolton, MA 01740

Deed Reference: Worcester District Registry of Deeds, Book 5114 Page 579

Date Petition filed with Town Clerk of Bolton, MA: June 2, 2014

Type of Application: Variances

Applicable Zoning Bylaw of the Code of the Town of Bolton, MA: Section 250-13.B

Hearing Date: July 28, 2014

Members Present: Chairman, Gerard Ahearn, Matthew Hurd, Andy Kischitz, Bradley Reed
Kay Stoner, Associate, Bryan Holmes, Associate, Jack Sargent.

Decision: On July 28, 2014 at 7 p.m., the Board of Appeals voted unanimously to approve the Variance requests seeking relief from lot size, lot frontage, lot width for 100 feet back from street line, front yard setback, and side yard setback.

PROCEDURAL HISTORY

1. On June 2, 2014 Wachusett Realty LLC (hereinafter, the Applicant), applied to the Zoning Board of Appeals (ZBA) for Variances for the Premises located at 562 Main Street, Bolton, MA from dimensional zoning requirements as set forth in Section 250-13.B of the Code of the Town of Bolton. The Premises is identified on the Bolton Assessor's Map 4.C as Parcel 35 located in the Limited Business Zoning District.

The Applicant sought relief for lot size, lot frontage, lot width for 100 feet back from street line, Front yard setback and side yard setback as follows:

	Current	Required
A. Lot Size	.85 acres	1.5 acres
B. Lot Frontage	129.42	200 feet
C. Lot width @100 feet	129.03	150 feet
D. Front Yard Setback	43	150 feet
E. Side Yard Setback	35	50

2. The Applicant intends to alter/erect a structure to be used as a branch Bank for the Applicant's subsidiary, Clinton Savings Bank.
3. A duly posted public hearing was held on July 28, 2014 at 7 p.m. at the Bolton Town Hall. Chairman Gerard Ahearn read the Notice of Public Hearing for the request for Variances pursuant to Section 250-13.B of the Code of the Town of Bolton. The hearing was held simultaneous with a request for a Special Permit affecting the same property. The Board closed the hearing the same evening.

RECORD DOCUMENTS

During the course of the public hearing the documents, plans, and other written materials set forth in Appendix A were received by the Board and incorporated into the record.

FINDINGS

1. The Premises is located at 562 Main Street, Bolton, MA 01740, identified on Bolton Assessor's Map 4.C as Parcel 35, and is owned by R. Lee Bracy, Jr., P.O. Box 189, Bolton, MA 01740. The Premises is located in the Limited Business Zoning District.
2. Based upon the information submitted at the public hearing, including the record documents and comments received from the public, the Board makes the following specific findings with regard to the requests for Variances:

- a. **VARIANCES**

The requested Variances and the requirements set forth in Section 250-13.B of the Code of the Town of Bolton are as follows:

	Current	Required
A. Lot Size	.85 acres	1.5 acres
B. Lot Frontage	129.42	200 feet
C. Lot width @100 feet	129.03	150 feet
D. Front Yard Setback	43	150 feet
E. Side Yard Setback	35	50

**CRITERIA AND FULLFILLMENT OF REQUIREMENTS
AND FINDINGS FOR REQUESTED VARIANCES**

The Board finds that the criteria for the grant of Variances, set forth in G.L. c. 40A, Section 10, have been met for the following reasons:

- 1. That there are circumstances that exist relating to the soil conditions, shape, or topography of the land or structures that uniquely affect such land or structures but that do not affect generally the zoning district in which such land or structure is located;**

The lot size and preexisting nature of the structure on the Premises are unique to it. It is impossible for this lot and any structure on it to conform to the present zoning requirements for the District. The Town by adopting those requirements made it impossible to construct any structure on the property to comply with zoning without the issuance of Variances. It also has realistically zoned out the residential use of the Premises by the uses of the properties that surround the Premises. The lot is about one half the minimum size required. The setback requirements are impossible to meet. The Premises has a failed septic system. The soil and shape of the lot would only support a use such as the one proposed by the Applicant for a branch Bank.

- 2. Literal enforcement of the provisions of the bylaw would involve substantial hardship financial or otherwise to the Applicant;**

The current owner's nonconforming residence is surrounded by business ventures across the street and directly abutting it. The Premises has a failed septic system. The Board finds that it will cost in excess of One Hundred Twenty Thousand dollars to repair and or replace same. It is unlikely, impractical, if not impossible for the current owner to find a buyer who would be willing to reside on the Premises and incur that kind of expense even if possible. However, the soil conditions on the Premises would not support a new septic system under Title V to service a residence. The Owner would suffer great financial loss if he could only sell his home to a buyer intending to use the Premises for housing. To require the Applicant to use the existing ninety year old structure as is would involve a financial hardship to the applicant would be bad for its business. Any potential business

buyer of this property would likely have hardship if no changes were made to the structure.

3. The desired relief may be granted without substantial detriment to the public good.

The allowance of the requested relief will result in no threat of harm to the public good. The Applicant has operated a branch in Bolton for more than twenty years at a location directly across the street from the Premises. The proposed use is allowed by the zoning bylaw for the Limited Business Zoning District upon issuance of a Special Permit from the Planning Board. The proposed use as a branch Bank is a clean operation. The building will be tastefully designed to be consistent and fit within the historical nature of Main Street. At the Zoning Board's request the Applicant appeared before and received the approval of the building design from the Design Review Board of Bolton. That approval letter has been made part of the record of this application. The proposed structure will not be located any closer to the street or sideline boundaries than the existing dwelling. The new and improved building will result in higher tax revenue to the Town.

4. The desired relief may be granted without nullifying or substantially derogating from the intent and purpose of the Bolton Zoning Bylaws.

The proposed structure will be aesthetically pleasing. The construction will be consistent with the Main Street architectural character. The requested relief granted by this Board is historically consistent with the Bolton Zoning Board's past approvals of Variances and Special Permits within the past twenty years for the other business within the Limited Business Zoning District.

DECISION

Pursuant to G.L. c. 40A, Section 10 and Section 250-6 of the Code of the Town of Bolton, the Board, after public hearing and findings of fact, hereby grants the Petitioner's requests for Variances, as follows:

Variances from Section 250-13.B of the Code of the Town of Bolton to permit the construction of a new building at 562 Main Street, Bolton, MA allowing for the following dimensional Variances from the zoning bylaw:

	Current	Required
A. Lot Size	.85 acres	1.5 acres
B. Lot Frontage	129.42	200 feet
C. Lot width @100 feet	129.03	150 feet
D. Front Yard Setback	43	150 feet
E. Side Yard Setback	35	50

RECORD OF VOTE

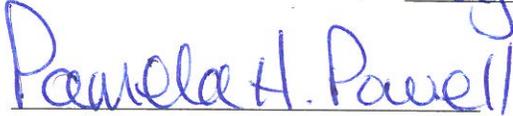
The following members of the Zoning Board unanimously voted to grant the subject to the above-stated terms: Chairman, Gerard Ahearn, Matthew Hurd, Andy Kischitz, Bradley Reed, Kay Stoner.



Gerard Ahearn, Chairman
(On behalf of the Zoning Board of Appeals)

FILED WITH THE TOWN CLERK

Filed with the Town Clerk on August 7, 2014.



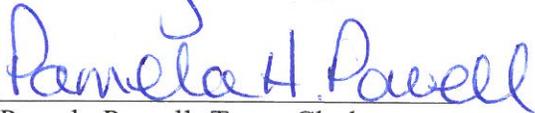
Pamela Powell, Town Clerk

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CERTIFICATE OF NO APPEAL

The undersigned, being the Town Clerk of the Town of Bolton, certifies that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Date: August 28, 2014.



Pamela Powell, Town Clerk

- Copy of Variance Findings and Decision mailed to:
- Abutters
- Surrounding Towns
- Bolton Boards and Committees
- Applicant

APPENDIX A RECORD DOCUMENTS

Original Application Documents

1. Application to ZBA;
2. Certified Abutters List from Bolton's Assessor's Office;
3. Brief to the Board stating the Applicant's request for relief from the provision of Section 250-13.B of the Code of the Town of Bolton;
4. Premises Deed Copy; and
5. Photographs of the existing Premises.

July 28, 2014 Hearing Documents

1. Letter/ Decision from Bolton Board of Health dated July 16, 2014 with attached Sewage Disposal Works Construction Permit from the Nashoba Associated Boards of Health issued July 8, 2014 for the Premises;
2. Determination of Non Applicability by Bolton Conservation Commission dated July 21, 2014 for the Premises;
3. Letter/ Decision from Bolton Design Review Board dated July 28, 2014 for the Premises;
4. Traffic Impact and Access Study prepared by Dermot J. Kelly Associates, Inc.;
5. "Existing Conditions Plan" prepared by David E. Ross Associates, Inc. for Wachusett Realty, LLC, revision date of June 2, 2014, Scale: 1"=20';
6. "Site Layout Plan" prepared by David E. Ross Associates, Inc. for Wachusett Realty, LLC, revision date of June 2, 2014, Scale: 1"=20';
7. "Site Grading & Utility Plan" prepared by David E. Ross Associates, Inc. for Wachusett Realty, LLC, revision date of June 2, 2014, Scale: 1"=20';
8. "Proposed Landscape Plan", Sheet DR.L, prepared by Approach Architects for Clinton Savings Bank, revision date of July 24, 2014, Scale: 1"=20';
9. "Proposed Floor Plan", Sheet DR.1, prepared by Approach Architects for Clinton Savings Bank, revision date of July 24, 2014, Scale: 1/8"=1'-0";
10. "Proposed Front and Right Side Elevations", Sheet DR.2, prepared by Approach Architects for Clinton Savings Bank, revision date of July 24, 2014, Scale: 3/16"=1'-0";

11. "Proposed Rear and Left Side Elevations", Sheet DR.3, prepared by Approach Architects for Clinton Savings Bank, revision date of July 24, 2014, Scale: 3/16" = 1'-0";
12. "Proposed Site Elevations", Sheet DR.4, prepared by Approach Architects for Clinton Savings Bank, revision date of July 24, 2014, Scale: 3/32"=1'-0";
13. "Proposed Fence Details and Sign Proportions", Sheet DR.5, prepared by Approach Architects for Clinton Savings Bank, revision date of July 24, 2014; and
14. "Proposed Lighting Specifications", Sheet DR.6, prepared by Approach Architects for Clinton Savings Bank, revision date of July 24, 2014.