



TOWN OF HINGHAM

Board of Appeals

NOTICE OF DECISION SPECIAL PERMIT

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AUG 07 2024

Town Clerk
Hingham MA

IN THE MATTER OF:

Applicant/
Owner: Benedict D. Wilcox
6B Green Street
Hingham, MA 02043

Property: 58 Main Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 57845, Page 135

Plan References: "Site Plan of Land – 58 Main Street," prepared by Perkins Engineering, Inc., 1287 Washington Street, Hingham, MA 02043, dated May 24, 2023 (1 Sheet);

Building Plans entitled "Reconstruction of "The Thomas Barker House," prepared by Wilcox Corporation, dated May 5, 2023 (4 pages).

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of Benedict D. Wilcox (the "Applicant") for a Special Permit A1 under Section III-I.1.d(iii)(B) of the Zoning By-Law (the "By-Law"), and such other relief as necessary, to construct a 24' by 30', two-story single-family house in Residence District A.

The Board opened a duly noticed public hearing on the application at a meeting held remotely on June 10, 2024 via Zoom as an alternate means of public access pursuant to Chapter 2 of the Acts of 2023 and all other applicable laws temporarily amending certain provisions of the Open Meeting Law. The Board panel consisted of regular members Robyn Maguire, Chair, Paul K. Healey and Jed Ruccio. The Applicant's representative, John F. Danehey, Esq., assisted in the presentation of this application. The June 10, 2024 public hearing was opened and immediately continued to July 24, 2024. At the conclusion of the review on July 24, 2024, the Board voted unanimously to grant the requested Special Permit A1 with conditions set forth below.

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

BACKGROUND AND DISCUSSION

The subject property is located in Resident District A and is nonconforming in lot area, 7,909 SF (where 20,000 is required) and in frontage, 63.03' (where 125' is required). The Applicant is proposing to construct a 24' x 30' two-story, single-family home. The home as proposed will conform the front, side and rear setbacks in the district, as well as with the height.

The former single-family home on 58 Main Street was demolished in 2018 by the Town after almost 25 years of neglect by the previous owner. The Applicant, Mr. Wilcox, purchased the property in 2023. P Section III-I.1.d(iii)(B), approved by the 2024 Annual Town Meeting, permits the reconstruction of a demolished single family dwelling on a nonconforming lot within ten years of the demolition upon the issuance of a Special Permit A1. The zoning amendment was approved by the Attorney General but the appeal period under MGL Chapter 40, Section 32. As noted in the conditions, if the Applicant proceeds with the project prior to expiration of the appeal period, he does so at his own risk.

FINDINGS

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the hearing, the Board made the following findings in accordance with the Special Permit Approval Criteria under Section I-H, 2 and Section III-I.1.d(iii)(B):

- a. **Use of the site is in harmony with the general purpose and intent of the Zoning By-Law.** The applicant is proposing the reconstruction of a single-family home in a residential district Section III-I.1.d(iii)(B) allows for the reconstruction of a demolished single-family dwelling on a non-conforming lot within 10 years of demolition upon issuance of a special permit A1. 58 Main Street was demolished in 2018 and meets this requirement.
- b. **The proposed use complies with the purposes and standards of the relevant specific sections of this By-Law.** The proposed single-family home is a permitted use and will conform to the front, side and rear setbacks and the maximum height allowed in Residence District A as required under Section III-I.1.d(iii)(B) of the Zoning By-Law.
- c. **The specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area.** The proposed single-family home is being constructed in a residential district, making it an appropriate site for this project.

- d. **The use as developed and operated will create positive impacts or potential adverse impacts will be mitigated.** The site has been vacant since the previous structure was demolished by the Town in 2018. Since that time, the lot was not maintained and also had abandoned vehicles parked on it. Having a single-family home on this lot will be a positive impact to the neighborhood and downtown community.
- e. **There will be no nuisance or serious hazard to vehicles or pedestrians.** The parcel has a location for a driveway that will be able to provide parking for at least two vehicles as required by Section V-A.
- f. **Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use.** Town Water, Sewer and electric is available to the site.
- g. **The proposed Project meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction:** The project will need to go through the building permit application process and possibly other permitting before it can begin. These processes will require that the project meets the site construction standards.

DECISION

Upon a motion made by Paul Healey and seconded by Jed Ruccio, the Board voted unanimously to GRANT the application of Benedict D. Wilcox for a Special Permit A1 under § III-I.1.d(iii)(B) of the Zoning By-Law, and any other relief as necessary, to construct a 24' by 30', two-story single-family house, at 58 Main Street in Residence District A subject to the following conditions:

1. The work shall be completed in accordance with the approved plans, applicable provisions of the Zoning By-Law, and the representations made during the public hearing.
2. The appeal period under MGL c. 40, §32 for the zoning amendment approving Section III-I.1.d(b)(iii) will not expire until on or about October 9, 2024. Until the expiration of such appeal period, any work commenced by the Applicant pursuant to this special permit will be at the Applicant's risk. In the event an appeal of the zoning amendment is filed, the Applicant may be subject to a cease and desist order from the Building Commissioner pending the final disposition of the appeal and, if the zoning amendment is not upheld, Applicant shall be responsible, at his sole cost and expense, for all costs of returning the site to compliance with the Zoning By-Law.

For the Board of Appeals,



Robyn Maguire, Chair
August 7, 2024

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.