



Town of Boxborough, Massachusetts Planning Department Staff Report – Special Permit

Prepared by: Simon Corson, Town Planner

April 1, 2021

Site: 564 Burroughs Road

Applicant and Owner Name: Christopher Loughlin and Carol Dionne

Applicant and Owner Address: 564 Burroughs Road, Boxborough, MA 01719

Legal Notice: Pursuant to MGL Chapter 40A and Sections 4200, 9100 and 9200 of the Boxborough Zoning Bylaw, a public hearing will be held before the Boxborough Zoning Board of Appeals on April 6, 2021 at 7:30 PM to consider the Special Permit application received from property owners Carol Dionne and Christopher Loughlin to alter a nonconforming structure.

The subject property, located at 564 Burroughs Road in the Agricultural Residential Zoning District, is known as Assessor's Parcel # 14-064-000.

Zoning District(s): Agricultural-Residential

Zoning Approval Sought: Special Permit under Sections 4201, 4202, and 9200 to alter a pre-existing, nonconforming structure

Date of Application: February 17, 2021

Date(s) of Public Hearing: April 6, 2021

I. Project Description

1. **Subject Property:** The subject property consists of an approximately 0.94-acre (40,946 square foot) parcel on the south side of Burroughs Road with 150 feet of frontage. The parcel contains a colonial-style, single-family dwelling, which meets the 50-foot setback from Burroughs Road. The property has no wetlands.

2. **Proposal:** The Applicant/Owner is seeking to replace an existing portion of the pre-existing nonconforming, 40,946 square foot, single-family dwelling, with a new addition on top of a full foundation. The portion of the dwelling for which the alteration is proposed is on eastside, nearest to the single-family dwelling located at 544 Burroughs Road. The existing porch that makes the structure nonconforming would be replaced with a family room and office in the same location. Additionally, a sunroom is proposed on the northwestern side of the dwelling, and would be compliant with setback requirements.

3. **Nature of Application:** The subject property is located in the Agricultural-Residential Zoning District where the minimum lot size is 60,000 square feet. The Applicant/Owner's single-family house does not meet side yard setbacks, which means the structure is nonconforming with regard to the minimum setbacks for the zoning district, and therefore the eastside of the building containing the family

room and porch is pre-existing nonconforming. Section 4202 of the Zoning Bylaw indicates the following:

“A Special Permit must be obtained from the Board of Appeals pursuant to the provisions of Section 9200 before any change, alteration, or extension of a nonconforming use or structure may be made and no such permit will be granted unless the Board of Appeals shall have found that such change, alteration, or extension shall not be substantially more detrimental to the neighborhood than the existing nonconforming use.”

Therefore, since the Applicant/Owner is proposing to change the size of the pre-existing nonconforming structure by reconstructing a portion of their home, they are required to seek Special Permit approval from the Zoning Board of Appeals.

4. Surrounding Neighborhood: The subject property is located in an Agricultural-Residential Zoning District off Burroughs Road in south central Boxborough. The surrounding area primarily consists of single-family dwellings on parcels which are 1.0 to 1.5 acres in size. South of the parcel are significant wetlands which are part of the Flerra Meadows conservation land.

II. Compliance with Section 4202

This section of the Zoning Bylaw indicates that no Special Permit will be granted unless the Zoning Board of Appeals shall have found that such proposed change, alteration, or extension shall not be substantially more detrimental to the neighborhood than the existing nonconforming use. The proposed addition would extend 13.2 feet to the south conforming with rear yard setback requirements, while the reconstruction would maintain the preexisting nonconforming 15.1-foot setback towards the abutting property line to the east. The proposed reconstruction and addition to the existing building would maintain a size consistent with the other dwellings in the surrounding neighborhood. The proposed alterations to the pre-existing nonconforming building would add approximately 486 gross square feet to the existing 3,020 gross square foot single-family dwelling. This would increase the size of the single-family dwelling to approximately 3,506 gross square feet. The lots surrounding the subject property on Burroughs Road are between 0.9 and 2.72 acres in size with single-family dwellings ranging from 2,862 to 5,344 gross square feet. Therefore, based on the above, the Town Planner finds the proposed addition to the pre-existing nonconforming building is not substantially more detrimental to the neighborhood than the existing nonconforming use.

III. Compliance with Section 4203

Section 4203 reads as follows:

“No change, alteration, or extension of any nonconforming use or structure shall result in an extension of the structure or an increase in the use to more than one hundred percent in excess of the gross floor area of the structure or of the total area of the use existing or begun when this Bylaw was adopted.”

The pre-existing nonconforming single-family dwelling at the subject property contains 3,196 gross square feet. The proposed addition would contain approximately 486 gross square feet. As such, the Town Planner finds the proposed addition complies with Section 4203 of the Zoning Bylaw.

IV. Compliance with Section 9204 Decision

No application for a Special Permit shall be granted unless the Special Permit Granting Authority shall find that the structure(s) and/or use(s) proposed shall not have adverse effects which outweigh its benefits

on either the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

1. Social and community needs which are served by the proposal.

The proposed alteration to the pre-existing nonconforming building is consistent with the surrounding neighborhood and its uses, most of which consist of single-family dwellings. The proposed project will expand an existing single-family dwelling to a size which is still comparable to the size of dwellings in the immediate surrounding area. The addition of the sunroom to the existing building will enhance the overall character of the property and the neighborhood. Furthermore, when the project is completed, the value of the property will be increased and, in turn, will increase the tax contribution of the property to the Town. As such, the Town Planner finds social and community needs are served by the proposal.

2. Traffic flow and safety.

The proposed project will not change the nature or intensity of the use of the subject property as single-family dwelling and will be consistent with the other properties in the surrounding neighborhood. The existing access to and from the subject property will not change as a result of the proposal. Therefore, the Town Planner finds the proposed project will not have an adverse impact to the safety or traffic environment on Burroughs Road or the surrounding area.

3. Adequacy of utilities and other public or private services, including storage or disposal of sewage, refuse or other wastes, and drainage and/or retention of surface water.

The proposed use of the subject property would remain a single-family dwelling and, as such, the existing utilities and services for the property should be sufficient. This alteration should not require any adjustments to the property's wastewater system. Additionally, the proposed addition should not significantly alter the drainage or surface water runoff at the property as the vast majority of the lot will remain undisturbed. As such, the Town Planner finds the utilities and other public or private services for the property will be adequate for the proposed addition to the pre-existing nonconforming single-family dwelling.

4. Density of population, intensity of use, neighborhood character and social structures.

The proposed continued use of the property as a single-family dwelling is consistent with the use intensity and neighborhood character of the surrounding area. Additionally, the project will not increase the density of the area as the parcel has always been used as a single-family dwelling. Therefore, the Town Planner finds the proposed addition to the existing structure will not adversely impact the population density, intensity of the use of the property, or the neighborhood character.

5. Impacts on the natural environment.

The proposed alteration will be occurring outside of any wetlands and their 100-foot buffer areas. Little, if any, vegetation around the existing structure will need to be removed to access the building for construction. The proposed addition should not have a significant impact on the property's ability to drain water. Based on the above, the Town Planner finds there will be no adverse impact on the natural environment.

6. Impacts on health.

The proposed reconstruction and addition to the existing building will not have an adverse impact on either the health of the neighborhood or the town. As such, the Town Planner finds the proposed project will not have any adverse health impacts on the immediate area or the community.

7. Potential fiscal impact, including tax contribution, diminution or enhancement of neighboring property values, and creation of new employment opportunities.

The proposed addition to the pre-existing nonconforming structure will have a positive impact on the property's tax base contribution because the proposed changes will enhance the property's value and increase its tax contribution to the Town. The proposed addition of the sunroom and the continued use of the property as a single-family dwelling will most likely slightly enhance the values of abutting properties as well. Additionally, the project will create some new, temporary, construction jobs in the community. Therefore, the Town Planner finds the proposed project will result in a positive fiscal impact to the community.

V. Recommendation

Special Permit for Alterations to a Nonconforming Structure under Sections 4201, 4202, and 9200

Based upon the above findings and subject to the following conditions, the Town Planner recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

This recommendation is based upon a technical analysis of the application materials by the Town Planner, the required findings of the Boxborough Zoning Bylaw, and only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings, and/or conditions based upon additional information provided to the Town Planner during the public hearing process.

1. Approval is based upon the following Plans and Documents:
 - a. Plan of Land prepared by Kevin J. Jarvis dated February 8, 2021.
 - b. Proposed Addition Site Plan, Sheets 1-5 dated February 8, 2021.
2. Any changes or modifications now or in the future to the approved plans shall require approval of the Zoning Board of Appeals.
3. **Prior to the issuance of a Building Permit**, the Applicant/Owner shall record the Decision with the Middlesex South Registry of Deeds and provide verification of the recording to the Town Planner and Building Inspector.
4. To the extent possible, all exterior lighting must be confined to the subject property, cast light downward, and must not intrude, interfere or spill onto neighboring properties.
5. As-Built drawings shall be submitted to the Building Department for the foundation once it has been completed, as well as for the entire project once it has been completed.
6. Violation of any of the conditions of this Decision, as acknowledge by the permit holder or determined by a court of competent jurisdiction to have occurred, shall be grounds for enforcement of this Decision, or of any Building or Occupancy Permit granted hereunder. The Town may enforce compliance with the conditions of this Decision by any action of injunctive relief before any court of competent jurisdiction.