



ZONING BOARD OF APPEALS
TOWN OF MONTAGUE
ONE AVENUE A
TURNERS FALLS, MA 01376

NOTICE OF DECISION & VOTE

Applicant:

Mark P. Furtado
22 Lake Pleasant Rd.
Lake Pleasant, MA 01347

Case No. 14-07
Date January 8, 2014

Owners:

Helen M. Williams - Life Estate
Chad M. Williams & Meagan A. Vazquez
20 Lake Pleasant Rd.
Lake Pleasant, MA 01347

Premises Affected:

20-22 Lake Pleasant Rd.
Lake Pleasant, MA 01347
Assessors' Map 40 Lot 48
F Co. Registry of Deeds: Bk 2618 Pg 25
F Co. Registry of Deeds: Bk 6583 Pg 330

Special Permit	(X)
Variance Application (40A)	(X)
Section 6 Ch. 40A - Finding	()
Site Plan Review	()

After a public hearing held on:

Wednesday, December 10, 2013

The Board of Appeals finds:

- I. The Applicant has standing by virtue of a document signed by the Applicant and Owner dated June 27, 2009 in the general form of a purchase and sale agreement.
- II. Two buildings of separate use have existed on the property since at least 1972.
 - The property is one lot of approximately 1.61 acres with two houses (#22 & #20).
 - The second building now #22 was granted a Special Permit 8/16/1972 as a commercial garage/shop.
 - The garage was converted to a single family residence about 1991 with the approval of the Montague Planning Board.
- III. Zoning
 - Prior to 5/5/2001 the lot was in the (AF) Agricultural-Forestry district.
 - Prior to 5/5/2001 the lot and current use conformed to Montague's Zoning By-laws and was approved by the Montague Planning Board in 1991. (see: section 5.3.2 also amended 5/5/01)
 - Since 5/5/01 the property is in the (RB) Rural Business zone and does not conform in area. (2 acres required)

- The lot at #22 is proposed to have approximately 15,808 +/- or .36 acres with the remaining land of 1.25 acres left with the home at #20.
- The proposed division of land does not minimize the area non-conformity.

IV. The Subdivision Control Law, Chapter 41, Section 81-L allows a division of land where two or more buildings have occupied a single parcel of land prior to the adoption of Subdivision Control in Montague. Otherwise known as “Approval Not Required” (ANR)

V. The Board of Health requires further information regarding the septic system serving #20 and requires approval of a well location.

The Board of Appeals concludes:

The use and buildings are lawfully existing (section 5.1.1) but non-conforming in area. Section 5.1.4 allows for a Special Permit.

The Board finds that the proposed division of land to be rational and concludes that an additional dedication of land (.25 acres) to #22 would make frontage conformance, access and setbacks to #20 unnecessarily difficult.

THE BOARD OF APPEALS VOTED:

To grant a Special Permit pursuant to Section 5.1.4 (alterations of a non-conforming use) for the reduction in the required area in the (RB) Rural Business zoning district (section 5.4.1(b) of the Montague Zoning Bylaws.

Conditions:

- The division of land shall be no less than the dimensions of the plan submitted and generally follow the “Description” submitted to include the approximate 15,808 sq. ft. +/- or .36 acres of land area.
- A potable water supply shall be as approved by the Board of Health.
- Access shall be from a new location across the proposed frontage or as otherwise approved by a Planning Board Special Permit.

The Board of Appeals states: The Board neither approves or denies the variance request, however the Board finds that the circumstances of this land and its structures to be unique. The development of the land is found to be lawful and that a significant hardship exists, at least to the applicant, and that hardship cannot be considered self created. A failure to grant relief constitutes an undue burden with no public benefit.

The vote of the Zoning Board of Appeals was as follows:

- | | | | |
|-------------------------------------|-------------------|-------------------------------------|-------------------|
| 1. <u>Ernest L. Brown, Chairman</u> | YES | 2. <u>John Burek, Vice-Chairman</u> | YES |
| 3. <u>John Reynolds</u> | YES | 4. <u>Richard Ruth</u> | (Alt.) YES |
| 5. <u>Alan Ripingill</u> | (Alt.) YES | | |

Modification and Approval: Any changes proposed shall be reviewed by the Board of Appeals or its designee. The Chairman or designee may approve changes if in

conformance with the intent of the Special Permit or may refer it to the Board. Changes consistent with the purpose of this approval may be allowed by the Board without further hearings. Further hearings shall be at the discretion of the Board. Approval shall not be unreasonably withheld.

IMPORTANT: Any appeal from the decision of the Town of Montague Zoning Board of Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (MGL) as amended, and must be filed in the office of the Town Clerk within twenty (20) days after the date of filing of the decision with the Town Clerk.

Board of Appeals

By _____
Ernest L. Brown, Chairman
Clerk

Karen Casey-Chretien,

Received for filing by Town Clerk: _____
Time Date

Twenty day appeal period ends: _____
Time Date

I HEREBY CERTIFY THAT NO APPEAL HAS BEEN FILED WITHIN 20 DAYS FROM THE DATE THAT THIS DECISION WAS FILED WITH THE TOWN CLERK:

Montague Town Clerk

Date

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Notice to be recorded by Landowner