

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

IN THE MATTER OF: Daniel L. Pires  
Petitioner

PROPERTY OWNER: New Property Shop, Inc.  
29 Hancock St.  
Brockton, MA 02301

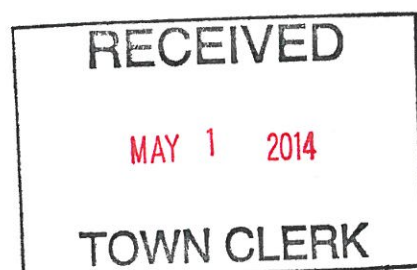
OPINION OF THE BOARD

REQUEST FOR SPECIAL PERMIT  
40 Coffee St., Medway, MA 02053

Hearing: January 8, 2014  
February 5, 2014  
February 19, 2014  
March 19, 2014  
Decision: March 19, 2014

MEMBERS PRESENT: David J. Cole, Chairman  
Anthony Biocchi  
Craig Olsen  
Carol Gould  
Arlene Doherty

THE WRITTEN OPINION WAS DELIVERED ON APRIL 30, 2014



*Today appeal date  
May 21, 2014*

## OPINION OF THE BOARD

This is a proceeding of the Zoning Board of Appeals of the Town of Medway, MA (hereinafter the Board) acting under the Zoning By-Laws of the Town of Medway, MA, 02053 and the Massachusetts General Law Chapter 40A, as amended, in which the petitioner, Daniel L. Pires, seeks relief from setback requirements (V.F.7) to construct a front stairs and landing at 40 Coffee St., Medway, MA 02053.

### Hearing

Notice of the Public Hearing by the Zoning Board of Appeals in this matter was published in the Milford Daily News on December 24 and 31, 2013. Notice also was sent to all "parties in interest" and posted in the Town Hall as required by Massachusetts General Laws Chapter 40A, Section 11. All continuances/postponements were posted as required.

Public Hearings in this matter were scheduled for January 8, February 5, February 19 and March 19, 2014. The Public Hearing scheduled for February 5, 2014 was postponed due to inclement weather. The final Public Hearing was held and the record closed on March 19, 2014. At the hearings, no members of the public spoke in favor of, or in opposition to the application.

### Hearing Summary

On January 8, 2014, the Applicant, Daniel Pires, came before the Board to request a Special Permit pursuant to Section V.F.7 of the By-Law for relief from setback requirements to construct a front stairway to the home at 40 Coffee St. located within the ARII zoning district. The lot is situated at the corner of Coffee St. and Lee Lane. There are few, if any, lots in this area that meet current zoning standards as to area, frontage and setbacks. The application stated the need for the new front stairway construction due to the relocation of the front door entrance. The change to the front door entrance was required to properly construct the interior stairway leading to the second floor of the home. Drawings were presented to the Board; however, they did not contain information relevant to the exact distance between the proposed construction and the front lot line. The Applicant was informed that it would be difficult for the Board to grant the requested relief without this information, and it was agreed to continue the hearing until the next meeting of the Board scheduled for February 5, 2014.

The February 5, 2014 hearing was postponed due to inclement weather.

The hearing was resumed on February 19, 2014. Mr. Pires presented a drawing to the Board showing the setback to be 35 feet. It was pointed out that a permit would not be needed if indeed the setback was within that which is required in the By-Law. It then was discovered that Mr. Pires failed to take into consideration the difference between the curb line and the front lot line and had taken his measurement from the curb line. Again, it was pointed out that it would be impossible for the Board to grant effective relief on the basis of the information provided. The Board suggested that Mr. Pires consult a surveyor to effect proper measurement of the setback and it was agreed to continue until the next meeting or until such time that this information was secured. It was also suggested that proof be given of area lots which also fell short of the 35 foot front setback requirement as well.

On March 19, 2014 the hearing resumed. Mr. Pires presented the Board with a Certified Plot Plan Of Land dated February 26, 2014 stamped by Colonial Engineering, Inc. The new front stair and landing construction would be 20.42 feet from the front lot line on Coffee St. and setback from Lee Lane would not be an issue. The Board viewed on-line a GIS map of the vicinity and determined it safe to conclude front setbacks of homes on neighboring lots to be at least that distance or less. The hearing then closed.

**Findings:**

By vote of 5-0:

1. The front setbacks of buildings on adjoining and nearby lots vary from the setback requirements of the zoning district.
2. The grant of a Special Permit under Section V.F.7 of the Medway Zoning By-Law would not cause substantial detriment to the public good.
3. The project as proposed meets all of the Special Permit criteria set forth in Section III.J of the Medway Zoning By-Law.

**Relief Granted**

By Vote of 5-0

A Special Permit, in accordance with the provisions of Section V.F.7 of the Medway Zoning By-Law, is granted to the Applicant, Daniel L. Pires, for the construction of a front stair and deck/landing at 40 Coffee Street, Medway, MA 02053 substantially in accordance with the attached and initialed plan with a front setback no closer than 20 Feet from Coffee Street.

The Board hereby makes a detailed record of its findings and proceedings relative to this petition, sets forth its reasons for its findings and decision, incorporates by reference any plan or diagram received by it, directs that this decision be filed in the office of the Town Clerk and be made a public record and that notice and copies of its decision be made forthwith to all parties or persons interested.

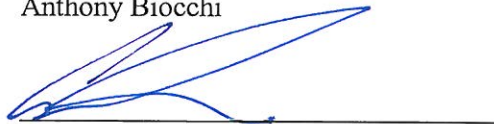
***IN ACCORDANCE WITH MASSACHUSETTS GENERAL LAW, CHAPTER 40A, SECTION 11 NO VARIANCE, SPECIAL PERMIT OR CONSTRUCTIVE GRANT OF A VARIANCE TAKES EFFECT UNTIL RECORDED IN THE REGISTRY OF DEEDS.***



David J. Cole, Chairman



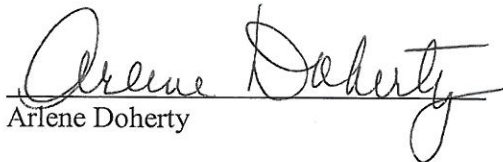
Anthony Biocchi



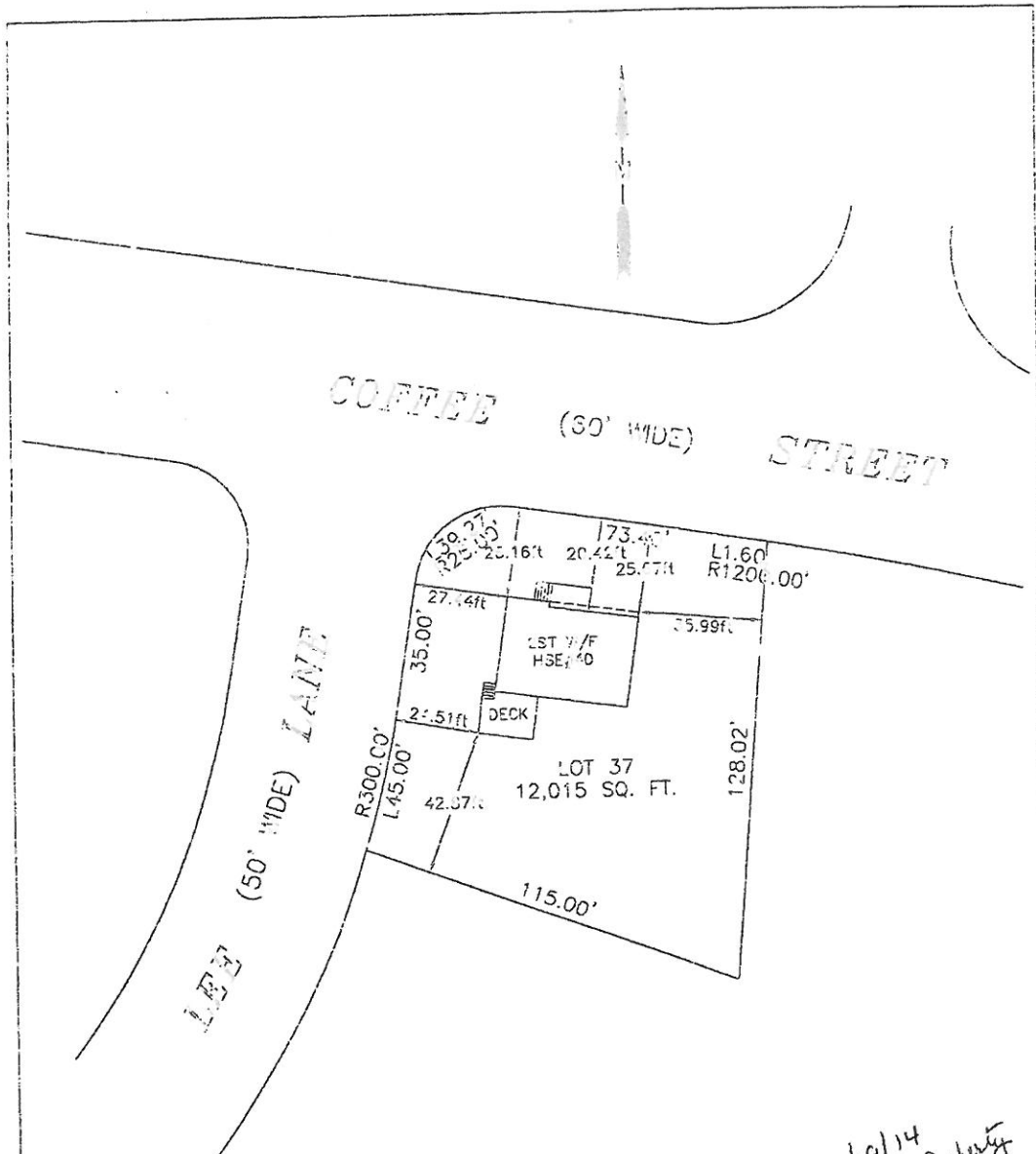
Craig Olsen



Carol Gould



Arlene Doherty



I CERTIFY THAT THE STRUCTURE SHOWN ON THIS PLAN CONFORMS TO THE ZONING BY-LAWS OF THE TOWN OF MEDWAY, WHEN LOT WAS CREATED, DEC. 1, 1958 AND DOES NOT LIE WITHIN THE FLOOD PLAIN.

3/19/14  
*Deanne DeBartolo*  
*David J. G...*  
*David G...*

PLOT PLAN OF LAND

III

MEDWAY, MA.

SCALE: 1"=40' FEB. 26, 2014

OWNER: NEW PROPERT SHOP, INC  
 40 COFFEE STREET  
 MEDWAY, MA. 02053

COLONIAL ENGINEERING INC.  
 11 AVEL STREET MEDWAY, MA.  
 508-533-1644

