



Town of Winchester  
BOARD OF APPEALS  
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Janine L. Viarella, Clerk

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June 13, 2022

RE: Petition No. 3963 – 121 Church Street, Winchester, MA

Pursuant to Chapter 40A, Section 15 of the Massachusetts General Laws, you are hereby notified that the Board of Appeals has granted Brandon and Lauren Bettencourt a Special Permit from Section 5.1.10(1) of the Winchester Zoning By-Law in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to have the width of the driveway entrances greater than 10 feet. The property is located in the RDB (Single Residence) zoning district and contains 15,997 +/- square feet.

Appeals from this decision, if any, must be made pursuant to Chapter 40A, Section 17 of the Massachusetts General Laws and must be filed within twenty (20) days after the date of the filing of this decision in the Office of the Town Clerk.

Janine L. Viarella  
Clerk, Board of Appeals

/jv

**TOWN OF WINCHESTER  
BOARD OF APPEALS**

**Petition No. 3963  
121 Church Street**

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TOWN CLERK  
TOWN OF WINCHESTER

**PETITIONER:** Brandon and Lauren Bettencourt

**APPLICATION FOR:** Special Permit from Section 5.1.10(1) of the Winchester Zoning Bylaw in accordance with Chapter 40A, Section 9 of the Massachusetts General Laws so as to be permitted to have the width of the driveway entrances greater than 10 feet. The property is located in the RDB (Single Residence) zoning district and contains 15,997 +/- square feet.

**DATE OF HEARING:** Heard on May 19, 2022. Decided on May 19, 2022.

**BOARD OF APPEALS:** Robert Tedesco (Vice Chair), William McGonigle (Regular Member), Dorothy Simboli (Alternate Member)

**DECISION:** Special Permit is granted.

**VOTE:** 3-0

**MATERIALS CONSIDERED:** *Submitted by Petitioner:*

- Form 2
- Form2H
- Photographs of subject and surrounding properties
- Site Plans
- September 2020 Street and Sidewalk Excavating and Trench Permits

*Submitted by Town:*

- April 20, 2022 Email from the Fire Department
- May 4, 2022 Memo from the Winchester Design Review Committee
- May 11, 2022 Memo from the Winchester Historical Commission
- May 16, 2022 Memo from the Winchester Planning Board
- May 19, 2022 Memo from the Winchester Engineering Department

**THE LAW:** Section 5.1.10(1) of the Winchester Zoning Bylaws ("WZB") states that: "For single-family dwellings in any district: The maximum width at the street line shall be 20 feet. Any driveway shall be at least ten (10) feet wide at the street line. One (1) driveway shall be permitted per single-family dwelling. A second entrance to the driveway on a single lot may be permitted if a minimum of 40 feet of separation is provided between entrances, and the maximum width of each entrance at the street line is no

more than ten (10) feet. The separation between entrances shall be defined by granite curbing, change in elevation, or other means to deter vehicles from driving over the separation.”

WZB 5.1.10(4) then says: “The Board of Appeals may grant relief from the requirements of subsections 5.1.10.1 through 3 of this section by special permit under Section 9.4. If the Board of Appeals disagrees with the recommendation of the Engineering Department regarding the special permit application, it shall explain its position in its written decision.”

Section 9.4.2 of the WZB then sets forth the criteria for special permits: “Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

1. Community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character, including historic resources and social structures;
5. Adequacy of proposed screening and buffering;
6. Impacts on the natural environment; and
7. Potential fiscal impact, including impact on town services, tax base, and employment.

**DISCUSSION:**

The Petitioners seek to widen their current entrance and exit drives from the current combined footage of 20 feet to a combined footage of 29 feet, where the eastern entrance of their semi-circular drive would be expanded from 10 to 15 feet and the western entrance from 10 to 14 feet. Petitioners explained that the current entrance/exit widths were so narrow that they required excessive berth when turning into the driveway, which created a safety hazard due to not only the heavy traffic on Church Street but also the fact that Church Street began to widen to two lanes at Petitioners’ property.

The Board acknowledged the traffic situation present at Petitioner’s location on Church Street and the potential safety hazard caused by the narrow entrances/exits. The Board further acknowledged how widening the entrances/exits would not only heighten vehicular safety, but also pedestrian safety.

In granting a Special Permit, the Board is required to address the criteria set forth in WZB § 9.4.2. Each is addressed in turn:

- The adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.
  - The Board finds that any adverse effects of the proposed use will not outweigh its beneficial impacts to the town or neighborhood, in view of the particular characteristics of the site and of the proposed pool in relation to that site. Specifically, given the nature of the site, the Board found no adverse effects from the proposed curb cuts. In contrast, the beneficial impacts included greater vehicular and pedestrian safety.
  
- Community needs which are served by the proposal; Traffic flow and safety, including parking and loading; and Adequacy of utilities and other public services.
  - The Board found that traffic flow and safety would be improved by widening the curb cuts as proposed by the Petitioners, as doing so would allow for safer turning into the driveway.
  
- Neighborhood character, including historic resources and social structures.
  - The Board found that the proposed pool did not detract from the neighborhood character, including any historic resources and social structures. This was supported by the submissions from the various other Town boards and departments. To the contrary, the Board found that matching the curb cuts to the driveway enhanced the character of the Property and surrounding neighborhood.
  
- Adequacy of proposed screening and buffering; Impacts on the natural environment; and Potential fiscal impact, including impact on town services, tax base, and employment
  - No evidence was presented on any of these criteria. However, given the nature of the proposal, the lack of evidence was not determinative on the Board's ultimate decision.

For these reasons, the Board approved the petitioner by a vote of 3-0, subject to the conditions below.

**CONDITIONS:** Petitioners shall adhere to all representations made to the Board (both written and oral) as well as the requirements and conditions set forth in the May 19, 2022 Memo from the Winchester Engineering Report, including:

- Petitioners maintain more than 40 feet between the driveway openings (as required by WZB 5.1.10(1)).
- Petitioners obtain a street opening permit from the Department of Public Works. The application for such shall include details showing installation of curbing and size of radius.

**BOARD OF APPEALS, BY:**

  
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William F. McGonigle

**DECISION DATED:**

6/13/2022