

Notice of Decision

Applicant: Frank Lopinsky

Owner: Frank Lopinsky and Linda Lopinsky

Premises: 25 Bell Road, Middlefield, Ma

Deed: Book 14235, Page 233

Date of Hearing: January 25, 2022

Date of Decision: January 31, 2022

Referring to the above application for a Variance pursuant to Section 6.5 of the Town of Middlefield Zoning Bylaw

After a public hearing on January 25, 2022 the Town of Middlefield, Zoning Board of Appeals (“the Board”) voted unanimously to authorize the Town of Middlefield Building Inspector (“MBI”) to issue a building permit to the Owner for the construction (“construction”) of the above work, or desired uses of the premises based on the following conditions:

- 1. The variance authorized by the Board of 6 ft 4 inches**
- 2. The garage shall be a one-story garage per the sketch submitted in the application annexed heretofore as Exhibit A**
- 3. The use of the subject construction, i.e. two car garage shall remain the sole use for the subject construction.**
- 4. If the rights authorized by this Variance are not exercised within one year of the date of the granting of such variance they shall lapse and may be reestablished only after notice and a new hearing pursuant to to Chapter 40A, Sec. 10.**
- 5. The applicant will be subject to all other federal, state and local rules and regulations not specifically covered by the granting of an exception.**

IMPORTANT:

Any appeal from the decision of the Zoning Board of Appeals must be made pursuant to Chapter 40 A, Sections 8 and 15, and must be filed within thirty (30) days after the date of the decision with the Town Clerk,

Notice of Variance

(General Law, Chapter 40 A, Section 10)

Notice is hereby given that a Variance has been granted to: Frank Lopinsky and Linda Lopinsky of 25 Bell Road, Middlefield, and Ma

By The Town of MIDDLEFIELD, Zoning Board of Appeals affecting the rights of the owner with respect to the use of premises on:

25 Bell Road, Middlefield, MA, Book 14235, Page 233

The recorded title standing in the name of Frank Lopinsky and Linda Lopinsky
Whose address is: 25 Bell Road, Middlefield, MA

By a notice duly recorded in the Hampshire District Registry of Deeds in the office of the Clerk of the Town of Middlefield executed by Mary F. Courtney, Chairperson of the Zoning Board of Appeals:

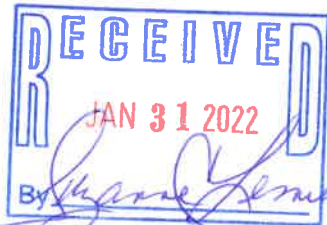
Signed this 31st day of January 2022

This is to verify that the twenty (20) days have elapsed since the filing of above decision with this office and no appeal has been filed, or appeal has been filed and denied, in this case.

Town Clerk Date

Suzanne Lemieux
January 31, 2022

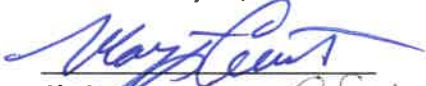


(See Notice of Decision Attached)



All permits necessary for the prosecution of the work or use shall be obtained within one year from the date of this notice.

Town of Middlefield Zoning Board of Appeals

Date: January 31, 2022


Chairwoman



RECORD OF MEETING

Applicant's Name: Frank Lopinsky

I, Mary F. Courtney, Chairwoman of the Zoning Board of Appeals under the Zoning Bylaw of the Town of Middlefield, hereby certify that the following is a detailed record of all its proceedings relative to the application of Frank Lopinsky for a Variance pursuant to M.G.L. Chapter 40A, Section 10 and Section 3.1 of the Town of Middlefield Zoning Bylaws.

- 1. The premises affected are located at 25 Bell Road, Middlefield, MA, Book 14235, Page 233.**

- 2. On December 16, 2021 an application for a variance, which a true and accurate copy marked as Exhibit "A" is made a part of this record and. And can be found at the Town Hall, was present to the Zoning Board of Appeals accompanied by the \$100 filing fee.**

- 3. Thereupon, a publication, a true and accurate copy which is marked as Exhibit "B" is made a part of this record and can be found at the Town Hall, was published in the Country Journal, a newspaper published in Hampshire and Hampden Counties and with a general circulation in the Town of Middlefield on January 12 and January 19, 2022.**

- 4. Notice of the hearing, a copy of which is marked as Exhibit "C" which is made a part of this record and can be found at the Town Hall, were mailed postpaid to the owners of all property deemed by the Board to be affected, being the same person named in the Assessor's certificate which was a part of the application, the Building Inspector, and the Selectboard.**

- 5. On January 25, 2022 a hearing was held at the Town Hall, Middlefield, MA at which opportunity was given to tall those interested to be heard in favor or in opposition to said application, at which meeting: Mary Courtney, Chairwoman read the application and findings into the record, a copy of which has been marked as Exhibit A and made a part of this record.**

No opposition was presented from any interested party, a utter of ZBA member. Support was offered by several Town of Middlefield residents in attendance.

1. Frank Lopinsky appeared on his own behalf. Mr. Lopinsky stated the following with regard to the application:

The proposed project includes the construction of a two car garage to the existing single-family home. A 32 x26 addition will contain a two bay garage. This will be located on the right side corner, easterly wall of the existing house. The improvement can be seen on the attached sketch as Exhibit A. Erosion controls per the Town of Middlefield Conservation Commission have been placed along all resource areas. The proposed project is consistent with the Zoning By-law use for this property. However, the work requires a variance of six (6) feet 4 inches from the Zoning Board of Appeals in accordance with Section 3.1 as it relates to the required 40 foot front zoning set back.

Mr. Lopinsky represented, and the Board confirmed, that he had obtained a building permit from the MBI prior to submitting his application and had been granted permission to proceed with construction at that time. Mr. Lopinsky proceeded with excavation and having the concrete forms installed for the two bay garage. Upon submission of an inquiry from the public to the Board, and in consultation by the Board with the MBI, Mr. Lopinsky was then advised by the MBI that a question as to the necessary front setback had been raised and he was required to submit the subject application to the Board. Upon investigation based on the MBI and ZBA concerns, Mr. Lopinsky acknowledged his original measurements of the front setback submitted within his original application were erroneous, the property did not have sufficient setback pursuant to the bylaw 3.1, and as such this deficiency was not identified by the MBI prior to granting a building permit as acknowledged by the MBI.

Lopinsky addressed the necessary elements required for the applicant to meet their burden for the requested variance, including 1) topography 2) hardship and 3) such construction is not a substantial detriment to the neighborhood. The size of the wetland on the Lopinsky property and its proximity to the residence is sufficiently different from any other properties in the neighborhood containing wetland. Additionally the proximity of the wetland to the home substantially constricts the use of the property.

The Board found that such variance is not substantially more detrimental to the neighborhood, the variance sought remedy verses requiring the applicant to remove the previously approved and now existing foundation work would work an undue hardship on the owner.

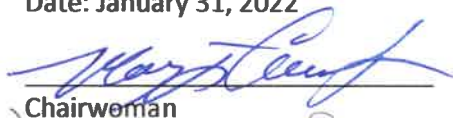
Further conditions:

1. The Owner will be required to abide by Town of Middlefield Conservation Commission guidance.
2. The garage shall be a one story garage per the sketch submitted in the application annexed heretofore as Exhibit A and no increase in dimensions in height, width or length shall be constructed now or in the future.
3. The use of the subject construction, i.e. two car garage shall remain the sole use for the subject construction now or in the future.

Seeing no one present to speak in opposition to the requested variance, and several Town of Middlefield residents speaking in support of the application, Chairwoman Mary F. Courtney closed the public hearing. Mary Courtney made a motion to grant the variance. Maureen Sullivan seconded the motion. Voting in favor of the motion were Mary Courtney, Maureen Sullivan and Sherry Venditti. The motion passed by unanimous vote.

Town of Middlefield Zoning Board of Appeals

Date: January 31, 2022



Chairwoman

