

74 Pine Point – E. Dodd

Required Findings:

MGL Chapter 40A Section 6: "...Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority ... that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use (*and structures*) to the neighborhood..."

All changes, extension or alterations must conform to the by-law or be found to be an existing non-conformity. This non-conformity may be maintained, reduced, or expanded only if the ZBA finds that it "shall not be substantially more detrimental than the existing nonconforming structures in the neighborhood."

All changes to the conforming portions of the existing structure must comply with the by-law requirements. If a new nonconformity is to be created, then a variance is required.

Variances:

MGL Chapter 40A Section 10 specifies the following:

"...the permit granting authority specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law..."

All three conditions shall be met!

Review of Application:

General: The lot 27 consisting of parcels 27 (contains residence) and 27A (contains garage) is noncompliant as to area and frontage. The area for lot 27 is 12,045 sq. ft. The frontage is 59.98 feet on parcel 27 and 81 feet on parcel 27A. All existing setbacks (front-yard, rear-yard, and side-yard) are nonconforming.

Parcel 27 (Residence)

Existing:

Front-yard setback is 17.6 feet which is **not compliant** with the bylaw's 30 feet.

Right-side-yard setback (West) is 15.5 feet which is **not compliant** with the bylaw's 25 feet.

Left-side-yard setback (East) is 11.4 feet which is **not compliant** with the bylaw's 25 feet.

Rear-yard setback (South) is ~5 feet which is **not compliant** with the bylaw's 40 feet.

Proposed:

Front-yard setback is ~13.6 feet which is not compliant with the bylaw's 30 feet but is preexisting. No variance required. Finding required by ZBA.

Right-side-yard setback (West) is ~1.2 feet which is not compliant with the bylaw's 25 feet but is preexisting. No variance required. Finding required by ZBA.

Left-side-yard setback (East) is 11.4 feet which is not compliant with the bylaw's 25 feet but is preexisting. No variance required. Finding required by ZBA.

Rear-yard setback (South) is ~5 feet which is not compliant with the bylaw's 40 feet but is preexisting. No variance required. Finding required by ZBA.

Parcel 27A (Garage)

Existing:

Front-yard setback is ~ -3 feet which is **not compliant** with the bylaw's 30 feet.

Right-side-yard setback (West) is ~38 feet which is compliant with the bylaw's 25 (note that there is a preexisting nonconformance from parcel 27).

Left-side-yard setback (East) is 8.6 feet which is **not compliant** with the bylaw's 25 feet.

Rear-yard setback (South) is 68.2 feet which is compliant with the bylaw's 40 feet.

Proposed:

Front-yard setback is ~ -3 feet which is not compliant with the bylaw's 30 feet but is preexisting. No variance required. Finding required by ZBA.

Right-side-yard setback (West) is ~38 feet which is compliant with the bylaw's 25 feet (note that there is a preexisting nonconformance from parcel 27).

Left-side-yard setback (East) is 8.6 feet which is not compliant with the bylaw's 25 feet but is preexisting. No variance required. Finding required by ZBA.

Rear-yard setback (South) is 68.2 feet which is compliant with the bylaw's 40 feet.

Findings:

No variances are required since all setbacks that are less than the by-law required setbacks and are therefore preexisting, requiring only an individual finding by the Board that such change, extension, or alteration being proposed are not substantially more detrimental than the existing nonconforming use to the neighborhood. The setbacks are for the lot, not the individual parcels.

Although the front-yard setback for the garage does not meet the by-law requirement, it is grandfathered. If the garage is demolished, the reconstructed garage should be moved back from the ROW to provide at least a 5-foot frontage. No variances are required.

I do have a problem with the “filling-in” of the area between the two South side porches of the existing structure. Neither porch has a foundation. They exist to provide side-yard access to the existing house. The new layout has no side yard access! I cannot support this addition to the footprint of the residence. I have no problem extending the right-side foundation (West) toward the lake by 10 feet. The same for the left side foundation (East). The rear-yard setback is being increased from 5 feet to 14.1 feet which is an improvement and offsets the further encroachment of the foundation into the right-side-yard (West).

Structure Dimensions:

The living area of the proposed residential structure is large when compared with the surrounding residences and other residences (not all) on Pine Point. The propose living area is 2476 sq. ft. not counting the basement and porch areas. It is not in keeping with the residences of the neighborhood! The surrounding residences are 1404 sq. ft. (70), 1597 sq. ft. (72), 1552 sq. ft. (76), 1386 sq. ft. (78), and 1152 sq. ft. The gross area is 3852 sq. ft. which includes the living area plus other support areas of the residence excluding a porch. The surrounding residences’ gross areas range from 1960 sq. ft. to 2680 sq. ft.

The proposed residence is very large compared to the surrounding residences!

74 Pine Point Road

Lot U01-26

	Area	12055
Parcel 27	Area	
Parcel 27 A	Area	

The lot is a non-conforming lot in area, frontage and right side yard setback.

Parcel 27	Present Configuration	Proposed Configuration	Bylaw requirement
Setbacks			
Front yard	17.6	~13.6	30
Side yard right	15.5	~12	25
side yard left	11.4	11.4	25
rear yard	~5	14.1	40
Parcel 27 A			
Setbacks	No Development		
Front yard	-4	-4	30
Side yard right	8.6	8.6	25
side yard left	~38	~38	25
rear yard	68.2	68.2	40

Variance Required
ByLaw Compliant
Pre-existing

Protected by MGL 40A Section 6 (grandfathered)

74 Pine Point Road

Existing Building areas

Pine Point	70	72	74	76	78	80
Living Area	1404	1597	1336	1552	1386	1152
Basement/Foundation	1014	824	568	1128	1088	808
Porch - covered	0	250	309	0	0	416
Decks/Patio	277	173	44	1064	32	88
Gross Area - Decks	2418	2421	1904	2680	2474	1960
Gross Area	2695	2844	2257	3744	2506	2464

Proposed Building Area

Living Area	2476
Basement/Foundation	1376
Porch - covered	768
Decks/Patio	408
Gross Area - Decks	3852
Gross Area	5028

Existing Foundation dimensions	34 x 28	952
Proposed Foundation		1376