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June 1, 2023

Via Hand-Delivery

Zoning Board of Appeals
c/o Teresa Mason, Administrative Assistant
7A Spofford Road
Boxford, MA 01921

**Re: Matthew Hill & Genna Hill
Variance Application – Lot 40-1-56**

Chair Fitzsimmons and Board Members,

I write on behalf of Matthew Hill and Genna Hill (“Applicants”), owners of a parcel of land located within the Town’s Residence-Agricultural (“R-A”) Zoning District and identified as Assessor’s Parcel 40-1-56 (“Property”), concerning the enclosed application for a variance from Section 196-29(B)(2) of the Town’s Zoning Bylaw (“Application”).

Section 196-29(B)(2) of the Zoning Bylaw provides,

Single driveways shall meet the following standards. . . . The first 25 feet in from the paved portion of the public way shall have a maximum slope of 3%; the maximum driveway slope along the centerline shall be 12%; any slopes over 8% shall be paved. To preserve the stability of the existing natural topography, no cut or fill in excess of eight feet of the natural topography shall be allowed within the limits of the driveway cross section.

Via the Application, the Applicants seek a variance to allow construction that will result in a maximum cut of approximately 33 feet and a maximum fill of approximately 17 feet within the limits of a proposed driveway’s cross section. For the reasons outlined herein, *infra*, Applicants respectfully request the Zoning Board to grant the variance and approve the Application.

I. The Property Meets All Requirements for Variance Relief

A. The Soil Conditions, Shape, and Topography of the Property are Unique

Before it may grant a variance, a Zoning Board must find that “soil conditions, shape, or topography” of the subject land especially affect such land but do not generally affect the zoning district in which the land is located. See Mass. Gen. Laws ch. 40A, § 10.

In the present context, the Property is characterized by unique soil conditions, shape, and topography. To wit, the soil conditions caused by on-site bordering vegetated wetlands located at the front of the Property mandate that the location and orientation of the proposed driveway be precisely as shown on the enclosed project plans. Likewise, the unique shape of the Property renders safe access to a reasonable upland building site from Wildmeadow Road – the sole way upon which the Property fronts – impossible except as shown on the enclosed project plans.

As such, the proposed driveway must be located and oriented exactly in the manner shown on the enclosed project plans; however, due to the extreme topography of the Property – which is characterized by a uniquely steep gradient – such a driveway will result in a maximum cut of approximately 33 feet and a maximum fill of approximately 17 feet within the limits of the driveway cross section.

The Zoning Board should therefore find that the radical soil conditions, shape, and topography of the Property especially affect the Property and create special circumstances that do not generally affect the R-A Zoning District.

B. Owing to Circumstances Relating to the Soil Conditions, Shape, and Topography of the Property, a Literal Enforcement of Section 196-29(B)(2) of the Zoning Bylaw Would Involve Substantial Hardship to Applicants

Additionally, prior to granting a variance, a Zoning Board must find that “owing to circumstances relating to the soil conditions, shape, or topography” of the subject land, “a literal enforcement of the provisions of the [zoning] ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant”. See Mass. Gen. Laws ch. 40A, § 10.

Should the Zoning Board literally enforce Section 196-29(B)(2) of the Zoning Bylaw, it will cause Applicants substantial hardship. Indeed, strict enforcement of the Zoning Bylaw to the Applicants’ proposed project would evidently render any development of the Property practically impossible, thereby depriving the Property of economically viable use.

Such an outcome would be particularly unjust and inequitable where: 1) the Property was created in 1989 by a prior owner, almost two decades before the 2008 addition of Section 196-29 to the Zoning Bylaw; 2) the Property is assessed as developable land having a value of \$318,500; and 3) all ten parcels of land surrounding the Property are apparently improved by residential housing.

The Zoning Board should therefore find that owing to circumstances relating to the soil conditions, shape, and topography of the Property, a literal enforcement of Section 196-29(B)(2) of the Zoning Bylaw would involve substantial hardship to Applicants.

C. Desirable Relief May be Granted Without Substantial Detriment to the Public Good and Without Nullifying or Substantially Derogating from the Intent or Purpose of the Zoning Bylaw

Lastly, before it grants a variance, a Zoning Board must find 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 [the zoning] ordinance or by-law.” See Mass. Gen. Laws ch. 40A, § 10.

1. Desirable Relief May be Granted Without Substantial Detriment to the Public Good

As noted herein, *supra*, all ten parcels of land surrounding the Property have apparently been developed with residential housing. Additionally, Applicant’s proposed project has been designed to maximize safety and aesthetic harmony with the surrounding neighborhood.

The Zoning Board should therefore find that the Application may be approved, allowing development of the Property with a single-family home and attendant improvements, without substantial detriment to the public good.

2. Desirable Relief May be Granted Without Nullifying or Substantially Derogating from the Intent or Purpose of the Zoning Bylaw

The express purpose of Section 196-29(B)(2) of the Zoning Bylaw is “[t]o preserve the stability of the existing natural topography”. As shown in the enclosed Application materials, Applicants’ proposed project has been painstakingly designed to preserve the stability of the existing natural topography of the Property. Indeed, the variance requested in the Application is the minimum, least obtrusive relief the Zoning Board may grant to allow development of the Property to maintain its economically viable use.

Additionally, the driveway’s impact on the existing natural topography of the Property will be considered and conditioned by numerous local boards. To wit, before the Applicants may construct the proposed driveway, additional relief will apparently be required from other local boards, including an Order of Conditions from the Conservation Commission and a Driveway Permit from the Planning Board.

The Zoning Board should therefore find that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

The Zoning Board should determine that the Property meets all requirements for variance relief.

II. The Zoning Board Should Grant the Variance Approve the Application

In the interests of equity and fairness, the Zoning Board should grant Applicants’ requested variance, thereby allowing the Property to maintain economically viable use and to be developed harmoniously with the surrounding properties in the neighborhood, as was possible by-right for almost two decades prior to the 2008 addition of Section 196-29 to the Zoning Bylaw.

Should the Zoning Board have any questions concerning the information contained within this letter or the enclosed Application, I would be happy to provide additional information or documentation. Thank you for your attention to this matter.

Very truly yours,

JOHNSON & BORENSTEIN, LLC

Donald F. Borenstein

Donald F. Borenstein

Cc: Matthew Hill & Genna Hill *via email*
John M. Morin, P.E. *via email*

**TOWN OF BOXFORD
ZONING BOARD OF APPEALS**

Time Stamp by Town
Clerk's Office

APPLICATION FOR:

- SPECIAL PERMIT/APEAL OF INSPECTOR OF BUILDINGS (\$500.00)
- VARIANCE (\$550.00)
- 40B COMPREHENSIVE PERMIT \$500.00 plus \$50.00 per individual unit
- 40B COMPREHENSIVE PERMIT \$250.00 plus \$25.00 per individual unit for
Local Initiative Program

NOTE TO CLERK:
DO NOT STAMP
WITHOUT INSPECTOR
OF BUILDINGS
APPROVAL

NO APPLICATION (EXCEPT FOR AN APPEAL OF THE INSPECTOR OF BUILDINGS) WILL BE ACCEPTED UNLESS EACH AND EVERY ITEM LISTED ON THE LAST PAGE OF THIS APPLICATION IS INCLUDED IN THE SUBMISSION. IF EACH AND EVERY ITEM IS NOT PROVIDED, YOUR APPLICATION MAY EITHER BE RETURNED TO YOU OR DENIED AT THE TIME OF THE HEARING FOR INCOMPLETENESS AND YOUR PROJECT WILL BE DELAYED.

Cases will be scheduled for a ZBA hearing only if your application has been (1) reviewed by the Inspector of Buildings, (2) time-stamped by the Town Clerk's Office, and (3) returned to the Building Department. **The Town Clerk office will not time-stamp your application without Certification by the Inspector of Buildings**

For Office Use Only
CERTIFICATE OF COMPLETENESS
Must be signed by the Inspector of Buildings prior to
Town Stamp

Inspector of Buildings Signature Date

For Office Use Only

Building Permit Denied _____
Reason Denied _____
Date Initial ZBA Application Received _____
Date of Inspector's Review _____
Date Returned to Applicant _____
Reason for return _____

PROPERTY OWNER INFORMATION

PROPERTY OWNER'S NAME Matthew & Genna Hill

PROPERTY ADDRESS Lot 20B Wildmeadow Road MAP/BLOCK/LOT 40 / 1 / 56

PROPERTY OWNER'S MAILING ADDRESS 2 Temi Road, Peabody, MA 01960

PROPERTY OWNER'S PHONE NUMBER: 978-836-8932
PROPERTY OWNER'S E-MAIL: matthew.hill87@gmail.com

NO APPLICATION (EXCEPT FOR AN APPEAL OF THE INSPECTOR OF BUILDINGS) WILL BE ACCEPTED UNLESS EACH AND EVERY ITEM LISTED ON THIS PAGE IS INCLUDED IN THE SUBMISSION. IF EACH AND EVERY ITEM IS NOT PROVIDED, YOUR APPLICATION MAY EITHER BE RETURNED TO YOU OR DENIED AT THE TIME OF THE HEARING FOR INCOMPLETENESS AND YOUR PROJECT WILL BE DELAYED.

PROJECT PLANS REQUIRED FOR ALL APPLICATIONS

SITE PLAN--One (1) full size sets and four (4) copies (no larger than 11"x 17") drawn to not less than 1" = 20' scale and showing:

- a north arrow
- the name of the owner(s) and the street address of the property
- the name and address of person preparing the plan and the date of the plan
- Licensed surveyor/engineer's stamp
- all bordering street names
- the dimensions of the property lines and lot area (in square feet) of the lot to be built upon
- the locations and dimensions (including the square footage) of all existing and proposed buildings and other structures on the lot
- the distance to the property line(s) from all buildings and other structures on the lot
- the distance between all buildings and other structures on the lot
- all required setback distances
- all existing and proposed entrances and exits to both the lot and the buildings on the lot
- ALL OF THE PROPOSED WORK MUST BE HIGHLIGHTED IN RED

BUILDING PLANS and ELEVATIONS N/A

One (1) full size set and four (4) copies (no larger than 11"x 17") drawn to not less than a ¼" = 1' scale and showing:

- a north arrow
- the name of the owner(s) and the street address of the property
- the name and address of person preparing the plan, and the date of the plan
- the exterior elevations (including windows, doors, porches, steps and other architectural features
- the interior floor plans including all dimensions
- for accessory apartments include floor area measurements/calculation as per ZBL 196-13.C(3)
Subsequent plan revisions shall be so noted
- ALL PROPOSED WORK MUST BE HIGHLIGHTED IN RED

APPLICATION PACKET SHALL INCLUDE

One (1) full size set and four (4) copies of the following (collated into applications)

1. Application time-stamped by the Town Clerk;
 2. Certified Abutter's List
 3. Postage Fee Form
 4. ~~Authorization for Publication Form~~ (no longer needed, per Peter Delaney)
 5. Deed
 6. Plot Plan
 7. N/A Architectural Plans
 8. Photographs of the Property
 9. Application fee (in the original application only, do not copy)
- Electronic version of the complete application, including plans in PDF Format on flash drive if the information cannot be emailed as a single document to the ZBA Secretary.*

APPLICANT INFORMATION (IF DIFFERENT FROM OWNER)

NAME _____


RELATIONSHIP TO PROPERTY OWNER (for example, spouse, attorney, architect, etc.) _____

APPLICANTS MAILING ADDRESS _____

APPLICANT'S PHONE NUMBER: _____ APPLICANT'S E-MAIL _____

OWNER AUTHORIZATION

I, Matthew and/or Genna Hill, as Owner of the subject property hereby authorize The Morin-Cameron Group, Inc. to act on my behalf in all matters relative to this application.



Signature of Owner 6/2/23
Date

OWNER OR AUTHORIZED AGENT DECLARATION

I, Matthew and/or Genna Hill, as Owner of the subject property hereby authorize The Morin-Cameron Group, Inc. to act on my behalf in all matters relative to this application



Signature of Owner or Authorized Agent 6/2/23
Date

PURPOSE OF APPLICATION AND DESCRIPTION OF PROJECT

Purpose of Application: Special Permit Variance Appeal of Inspector of Buildings Comprehensive Permit

Description of Project:

Construction of a single-family home with associated driveway, septic system, drainage, landscaping and grading.

Applicable Section(s) of Zoning Bylaw for which relief is sought:

Section 196-29 B (2) – no cut or fill in excess of 8 feet of the natural topography shall be allowed within the limits of the driveway cross section. Proposed project results in a maximum cut of 33 feet +/- and a maximum fill of 17 feet +/-.

Does the property, structure and/or use conform to the current Zoning Bylaw? Yes

If not, describe the non-conformity (lot size, setback, use, frontage, etc.) _____

ZONING DISTRICT: R-A B-1 B-2 M O ELDERLY POND WATERSHED OVERLAY WIRELESS COMMUNICATION SERVICES
 FLOODPLAIN SOLAR OVERLAY

DATE LOT WAS CREATED: 6/21/1989 DATE STRUCTURE WAS BUILT: n/a

DEED (Copy must be attached. Deed may be downloaded and printed from www.salemdeeds.com):

[BOOK 40636 PAGE 507] OR [CERTIFICATE NO. _____ DOCUMENT NO. _____]

POSTAGE FEE CALCULATION

POSTAGE FEE

In accordance with Article X, Section 196-49 of the Zoning bylaw of the Town of Boxford, you are required to pay the postage costs for the abutter notification of your application and decision.

The following is the formula used for determining the postage costs for each application:

Number of Certified Abutters
(including applicant & representative)
Notice of Hearing)

$$\underline{19} \times \$8.10 = \underline{\$153.90}$$

Number of Surrounding Towns & MVPC

$$9 \times \$8.10 = \$72.90$$

Number of Certified Abutters (including applicant & representative)
Notice of Decision

$$\underline{19} \times \$0.60 = \underline{\$11.40}$$

TOTAL AMOUNT OWED FOR POSTAGE FEE

\$238.20

Please remit a check separate from the filing fee, payable to the Town of Boxford, for the total amount owed for postage.

Lot 20-B Wildmeadow Road Boxford Massachusetts



SO.ESSEX #494 Bk:40636 Pg:507
01/05/2022 02:58 PM DEED Pg 1/2
eRecorded

MASSACHUSETTS EXCISE TAX
Southern Essex District ROD
Date: 01/05/2022 02:58 PM
ID: 1505643 Doc# 20220105004940
Fee: \$775.20 Cons: \$170,000.00

QUITCLAIM DEED

I, **ALICE M. BERGLUND, TRUSTEE OF THE ALICE M. BERGLUND LIVING TRUST**, u/d/t dated April 29, 2016, of P. O. Box 239, Lynnfield, Massachusetts (hereinafter referred to as "the Grantor"), being unmarried, for consideration paid in the amount of One Hundred Seventy Thousand and 00/100 (\$170,000.00) Dollars, grant to **MATTHEW HILL and GENNA HILL**, having an address of 15 Chestnut Street, Danvers, Massachusetts, 01923, husband and wife as tenants by the entirety,

with QUITCLAIM COVENANTS

the land in Boxford, Essex County, Massachusetts, described as follows:

Lot 20-B as shown on the "Subdivision Plan of Boxford Meadows, in Boxford, Massachusetts," dated September 30, 1988 and recorded with the Essex South District Registry of Deeds on July 7, 1989 at Plan Book 253, Plan 79, consisting of 6.27 acres, more or less (excluding the pond), with sixty-seven and 00/100 (67.00) feet of frontage along Wildmeadow Road.

Subject to and together with any and all easements, restrictions, covenants or conditions of record, insofar as the same may now be in force and applicable.


Property Address Lot 20-B Wildmeadow Road Boxford Massachusetts

Being the same premises as described in the deed of Alice M. Berglund, individually, dated April 29, 2016, and recorded in the Essex South District Registry of Deeds at Book 34922, Page 292.

Grantor hereby releases and waives any and all rights of homestead in the property and further states that no other person, beneficiary or entity is entitled to an Estate of Homestead in the Premises.

Witness my hand and seal this 5th day of January, 2022.

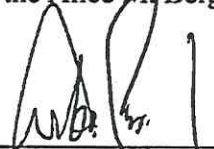
ALICE M. BERGLUND LIVING TRUST, by:

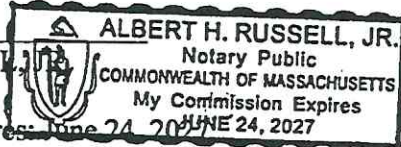

ALICE M. BERGLUND, TRUSTEE

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 5th day of January, 2022, before me, the undersigned Notary Public, personally appeared **ALICE M. BERGLUND, Trustee** as aforesaid, proved to me through satisfactory evidence of identification, which was a Massachusetts Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose, individually and as Trustee of, and on the behalf of, the Alice M. Berglund Living Trust.


ALBERT H. RUSSELL, JR.
NOTARY PUBLIC
My Commission Expires: June 24, 2027

**ALBERT H. RUSSELL, JR.**
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
JUNE 24, 2027

40-01-56, WILDMEADOW ROAD, BOXFORD MA, ABUTTERS LIST
 CONSERVATION COMMITTEE 250' AND PONDS

Parcel ID	Location	Owner	Owner 2	Owner Address	Owner City/Town	Owner State	Zip Code
40-01-10	10 MOONPENNY DR	MIRABITO DAVID M TE	MIRABITO NOREEN E	10 MOONPENNY DR	BOXFORD	MA	01921
40-01-11	6 MOONPENNY DR	FLINN JOHN B JR. TE	FLINN JESSICA R	6 MOONPENNY DR	BOXFORD	MA	01921
40-01-12	4 MOONPENNY DR	BERNHART CRAIG P	BERNHART PATRICIA D	4 MOONPENNY DR	BOXFORD	MA	01921
40-01-13	223 MIDDLETON RD	DAY DAVID & MARGRETH TR	THE DAY REVOCABLE LIVING TRUST	223 MIDDLETON RD	BOXFORD	MA	01921
40-01-14	229 MIDDLETON RD	CARRIO LIANE		229 MIDDLETON RD	BOXFORD	MA	01921
40-01-15	233 MIDDLETON RD	RAGAB, ADAM	MAHMOUD, RANDA	233 MIDDLETON RD	BOXFORD	MA	01921
40-01-16-1	5 HOLMES RD	RIEDEL STEVEN C		1181 ROSE CREEK	GREENSBORO	GA	30642
40-01-04	50 MOONPENNY DR	NADWORN MATHREW		50 MOONPENNY DR	BOXFORD	MA	01921
40-01-05	42 MOONPENNY DR	RIZZA CHRISTOPHER J	RIZZA SUPAPORN J	42 MOONPENNY DR	BOXFORD	MA	01921
40-01-54	23 WILDMEADOW RD	MUTH JOSEPH	MUTH KATLYN	23 WILDMEADOW RD	BOXFORD	MA	01921
40-01-55	21 WILDMEADOW RD	GERMATSKY ANATOLY P	GERMATSKAYA TATIANA	21 WILDMEADOW RD	BOXFORD	MA	01921
40-01-56	WILDMEADOW RD	HILL MATHREW	HILL GENNA	PO BOX 239	LYNNFIELD	MA	01940
40-01-57	15 WILDMEADOW RD	STEARNS JEFFREY	STEARNS SHARON	15 WILDMEADOW RD	BOXFORD	MA	01921
40-01-58	13 WILDMEADOW RD	O'HARA KEVIN S TR	O'HARA SUSAN M TR	13 WILDMEADOW RD	BOXFORD	MA	01921
40-01-59	5 WILDMEADOW RD	RUSSO LUCIANO	RUSSO MARIA C	4 HELEN DRIVE	PEABODY	MA	01960
40-01-06	40 MOONPENNY DR	DECOULOS JOHN J	DECOULOS IRENE F	40 MOONPENNY DR	BOXFORD	MA	01921
40-01-69	26 WILDMEADOW RD	GOLAR MARY M TR	18 WILDMEADOW RD TR	26 WILDMEADOW RD	BOXFORD	MA	01921
40-01-70	HOLMES RD	TOWN OF BOXFORD		7A SPOFFORD RD	BOXFORD	MA	01921

CERTIFIED COPY 5/10/23

Stacey Fournier

