

AMENDED



SO. ESSEX #193 Bk:41484 Pg:380  
03/21/2023 02:28 PM PERMIT Pg 1/5  
eRecorded

\* #1032  
ZBA 2022



FEB 21 AM 10:32  
ALVIN PHILLAM  
BOXFORD TOWN CLERK

**TOWN OF BOXFORD  
ZONING BOARD OF APPEALS  
NOTICE OF DECISION  
ON VARIANCE, SPECIAL PERMIT, OR APPEAL**

Applicants: Robert S. Miller and Marci L. Miller

Date: February 16, 2023

Owner: Robert S. Miller and Marci L. Miller Assessors Map 38, Block 02, Lot 9.8

Members of Board who sat on hearing: Steve Merriam, Ralph Nay and Thomas Jonak

Referring to the above application so as to permit a Special Permit to construct a 20' x 15' addition to existing family dwelling and the construction of an accessory apartment pursuant to 19B-13B (11) of the zoning bylaws at the Affected Premises and modify the floor plan for an accessory apartment pursuant to 19B-13(C). After a public hearing on January 26, 2023 the Zoning Board of Appeals voted to Grant Special Permit subject to the following safeguards and limitations on time use, if any: (see attached).

Vote of Individual Members:

NAME	VOTE
<i>[Signature]</i>	YES
<i>[Signature]</i>	YES
<i>[Signature]</i>	YES

This decision of the Zoning Board of Appeals shall not be recorded at the Registry of Deeds until Certified by the Town Clerk.

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I, Clerk of the Town of Boxford, Massachusetts, hereby certify that twenty days have elapsed since this decision was filed in the Town Clerk's office, and that no appeal of the decision has been filed, that it has been dismissed or denied.

Attest: *Alvin Phillam*  
Date: 3/14/2023

**A True Copy**

Attest *Alvin Phillam*  
Town Clerk  
Boxford, Massachusetts

**APPEAL:** You are hereby notified that you have the right to appeal the above decision to the Court and any appeal must be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, as amended, and must be filed within 20 days after the date of filing this decision with the Town Clerk.  
**RECORDING:** Any applicant who receives a special permit or variance is required by Massachusetts General Law 40A to have the decision recorded or registered at the Essex South District Registry of Deeds. A copy of the recorded document shall be forwarded to the Boxford Zoning Board of Appeals Office.

**DECISION OF THE ZONING BOARD OF APPEALS UNDER ZONING BYLAW  
TOWN OF BOXFORD, MASSACHUSETTS  
UPON THE PETITION OF ROBERT MILLER**

**Re: Case No.** 1032  
**Applicant:** Robert Miller  
**Property:** 57 Surrey Lane  
**Property Owners:** Robert and Marci Miller (50% owners)  
Gregory and Kathryn Mills (50% owners)  
**Title Reference:** Essex South District Registry of Deeds  
Book 40132, Page 383 dated 7/30/2021  
**Map/Block/Lot:** 38/2/9.6  
**Relief Sought:** Special Permit pursuant to ZBL 196-13(B)(11)(h), garage  
space exceeding three automobiles  
Special Permit pursuant to ZBL 196-13(C), accessory  
apartment

Board Members who sat on hearing:  
Steve Merriam, Chair pro tem  
Ralph Nay, Vice Chair pro tem  
Thomas Jonak, Clerk pro tem

Paula Fitzsimmons, Chair, recused from this case

Also present during one or more meetings  
John Morin, P.E. The Morin-Cameron Group  
Chris Crump, Architect, CWC Design, LLC.  
Robert and Marci Miller, 57 Surrey Lane  
Peter Delaney, Building Inspector  
Stacy Wright, Administrative Assistant Building Department

Pursuant to a notice duly published, posted and sent to all interested parties under the provisions of Massachusetts General Laws, a virtual public hearing was held on July 28, 2022 and continued to August 25, 2022 on the petition of Robert Miller for a Special Permit for garage space for more than three automobiles pursuant to ZBL 196-13(B)(11)(h) and a Special Permit for an accessory apartment pursuant to ZBL 196-13(C).

Pursuant to a notice duly published, posted and sent to all interested parties under the provisions of Massachusetts General Laws, a virtual public hearing was held on January 26, 2023 on the petition of Robert Miller to modify the floor plan for case 1032, Special Permit application for an accessory apartment pursuant to ZBL 196-13(C) which was previously approved August 25,

**A True Copy**  
*Attest*  
**Town Clerk**  
Boxford, Massachusetts

The Applicant requested to modify the floor plan for the accessory apartment. Updated floor area calculations were submitted to demonstrate compliance with zoning. \*

### **III. BOARD OF APPEALS FINDINGS REGARDING SPECIAL PERMIT**

The Zoning Board found the following statements of fact:

1. That the structure will be constructed per the plans submitted.
2. That the accessory apartment, within the boundary shown on the plans, is less than 1000 square feet.
3. That closets eliminated as shown on the plans to restrict the accessory apartment area below 1000 square feet will be permanently walled-off.
4. That the garage space will not be heated or supplied with running water.
5. That the structure is in harmony with the intent and purpose of the by-law as stated in ZBL 196-13(B)(11)(h) and is not a detriment to the community.
6. That the structure is in harmony with the intent and purpose of the by-law as stated in ZBL 196-13(C) and is not a detriment to the community.
7. There were no abutter objections presented to the board.
8. The occupants of the accessory apartment will be Robert and Marci Miller.
9. The Boxford Planning Board submitted documentation that the Planning Board voted, on 8/17/22 to recommend that the ZBA grant the Special Permits to the Applicant.
10. The Boxford Planning Board submitted documentation that the Planning Board voted, on 1/18/23 to recommend that the ZBA grant the requested modification to the Special Permit. \*
11. The previous statements of fact 1-9 above are supported by the modified application. \*

### **IV. DECISION**

At a public hearing held on August 25, 2022 the Board took the following actions:

**The Board approved the Special Permits requested by the Applicant.**

Upon motions duly made and seconded, for the foregoing reasons, the Board unanimously voted to GRANT Special Permits to build an accessory apartment, pursuant to ZBL 196-13(C), and garage space for more than three automobiles, pursuant to ZBL 196-13(B)(11)(h), subject to the following conditions:

1. The Special Permits are issued to Robert and Marci Miller and Gregory and Kathryn Mills, owners of the principal dwelling.

2. No commercial vehicles will be housed at the location.

**A True Copy**

Attest *Adam Phelan*

Town Clerk  
Boxford, Massachusetts

3. The structure shall be constructed in accordance with the most recent plans filed with the Zoning Board of Appeals.
4. The applicant shall provide as-built survey to the Building Inspector prior to the foundation inspection.
5. The Special Permit shall lapse if substantial construction has not begun, except for good cause, within 12 months of this approval, plus such time as is required to pursue or await the determination of an appeal or from the grant thereof.
6. This decision shall be recorded or registered in the Essex South District Registry of Deeds and proof provided to the Inspector of Buildings before any work shall commence.
7. This Special Permit is subject to all other pertinent laws, regulations and permits from all necessary departments in the Town of Boxford.
8. Robert and Marci Miller shall be the occupants of the accessory apartment.

At a public hearing held on January 26, 2023 the Board took the following action: \*

**The Board approved the modification to the accessory apartment Special Permit requested by the Applicant as shown on plan A-1.1 revision 2 dated December 21, 2022. \***

**Appeal:** You are hereby notified that you have the right to appeal the above decision to the Court and any appeal must be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, as amended, and must be filed within 20 days after the date of filing this decision with the Town Clerk.

**Recording:** Any applicant who receives a special permit or variance is required by Massachusetts General Law 40A to have the decision recorded or registered at the Essex South District Registry of Deeds. A copy of the recorded document shall be forwarded to the Boxford Zoning Board of Appeals office.

**A True Copy**  
**Attest** *Heather Phelan*  
Town Clerk  
Boxford, Massachusetts

2022. During the public meeting, the Board voted unanimously to re-open evidence in case 1032. Items below marked by \* were submitted as evidence and/or relate to the modified application subsequent to the August 25, 2022 decision.

## **I. APPLICATION MATERIALS**

The following materials were submitted:

1. Application – including postage worksheet, authorization and legal notice.
2. Certified abutters list
3. Quitclaim Deed: Book 40132 Page 383
4. Plans: Site Development Plan in Boxford, Massachusetts, 57 Surrey Lane with lot and accessory apartment area calculations prepared by the Morin-Cameron Group, Inc., 5/20/22.
5. Plans: First and Second floor as-is plans 57 Surrey Lane, prepared by Robert Miller, 5/11/22.
6. Plans: The Miller Residence, 57 Surrey Lane, sheets EX-1.0, EX-1.1, EX-2.0, EX-2.1, A-1.0, A-1.1a, A-2.0a, A-2.1a, A-1.1b, A-2.0b, A-2.1b, A-2.2b prepared by CWC Design LLC, 6/28/22.
7. Plans: The Miller Residence, 57 Surrey Lane, sheets A-1.1a, A-1.1b revised 8/5/22.
8. Plans: The Miller Residence, 57 Surrey Lane, sheet A-1.1b square footage area plan revised 8/5/22.
9. Planning Board recommendation dated 8/17/2022
10. USPS green cards and receipts
11. Photos of existing site conditions
12. Planning Board recommendation dated 1/18/23\*
13. Second Floor Plan Square Footage Calculations 12/29/22\*
14. 57 Surrey Lane ZBA Cover Letter 12/21/22 by Chris Crump\*
15. Drawing A-1.1 Proposed Second Floor Plan Revision 2 prepared by CWC Design LLC 12/21/22\*

During the public hearings before the Board of Appeals, John Morin, PE and Chris Crump, Architect, presented oral testimony and described the proposed addition utilizing the supplied plans and photographic evidence.

The Board received from the Boxford Planning Board a recommendation dated 8/17/2022 with a unanimous vote to approve the application as submitted.

The Board received from the Boxford Planning Board a subsequent recommendation dated 1/18/2023 with a unanimous vote to approve the modified application as submitted.\*

## **II. THE PROPOSAL**

The Applicant requests a Special Permit to construct a 20' x 15' addition to an existing residence at 57 Surrey Lane and configure the new addition and existing space in the residence on the second floor into an accessory apartment pursuant to ZBL 196-13(C). The new addition will include an additional garage bay bringing the total to four bays requiring a Special Permit pursuant to ZBL 196-13(B)(11)(h).

Attest

**A True Copy**

*Adam Phelan*  
Town Clerk

Boxford, Massachusetts