



TOWN OF BOLTON

ZONING BOARD OF APPEALS

Town Hall, 663 Main Street, Bolton, MA 01740
Phone: 978-779-3308 Fax: 978-779-5461

VARIANCE FINDINGS AND DECISION

Petitioner: Houde Realty Trust
470 Main Street
Bolton, MA 01740

Premises: 470 Main Street, Bolton, MA 01740
Bolton Assessor's Map 4.D Parcel 29

Owner: Houde Realty Trust
476 Main Street
Bolton, MA 01740

Deed Reference: Worcester District Registry of Deeds, Book 46112 Page 196

Date Petition filed with Town Clerk of Bolton, MA: May 19, 2015

Type of Application: Variances

Applicable Zoning Bylaw of the Code of the Town of Bolton, MA: Section 250-13.B

Hearing Date: June 11, 2015

Members Present: Chairman, Gerard Ahearn, Matthew Hurd, Andy Kischitz, Bradley Reed
Kay Stoner, Associate, Jack Sargent.

Decision: On June 11, 2015 at 7 p.m., the Board of Appeals voted unanimously to approve the Variance requests seeking relief from front yard setback and side yard setback.

PROCEDURAL HISTORY

1. On May 19, 2015 Houde Realty Trust (hereinafter, the Applicant), applied to the Zoning Board of Appeals (ZBA) for Variances for the Premises located at 470 Main Street, Bolton, MA from dimensional zoning requirements as set forth in Section 250-13.B of the Code of the Town of Bolton. The Premises is identified on the Bolton Assessor's Map 4.D as Parcel 29 located in the Business Zoning District.

The Applicant sought relief from front yard setback and side yard setback as follows:

	Proposed	Required
A. Front Yard Setback	51.4 feet	150 feet
B. Side Yard Setback	25 feet	50 feet

2. The Applicant intends to demolish the pre-existing nonconforming dwelling and construct a building for business and service establishments at 470 Main Street, Bolton, MA.
3. A duly posted public hearing was held on June 11, 2015 at 7 p.m. at the Houghton Building at 697 Main Street, Bolton, MA. Chairman Gerard Ahearn read the Notice of Public Hearing for the request for Variances pursuant to Section 250-13.B of the Code of the Town of Bolton. The Board closed the hearing the same evening.

RECORD DOCUMENTS

During the course of the public hearing the documents, plans, and other written materials set forth in Appendix A were received by the Board and incorporated into the record.

FINDINGS

1. The Premises is located at 470 Main Street, Bolton, MA 01740, identified on Bolton Assessor's Map 4.D as Parcel 29, and is owned by Houde Realty Trust, 476 Main Street, Bolton, MA 01740. The Premises is located in the Business Zoning District.
2. The premises contains 1.5 acres and 200 feet of frontage along Main Street in accordance with Section 250-13.B of the Code of the Town of Bolton.
3. Based upon the information submitted at the public hearing, including the record documents and comments received from the public, the Board makes the following specific findings with regard to the requests for Variances:

a. VARIANCES

The requested Variances and the requirements set forth in Section 250-13.B of the Code of the Town of Bolton are as follows:

	Proposed	Required
A. Front Yard Setback	51.4 feet	150 feet
B. Side Yard Setback	25 feet	50 feet

CRITERIA AND FULLFILLMENT OF REQUIREMENTS
AND FINDINGS FOR REQUESTED VARIANCES

The Board finds that the criteria for the grant of Variances, set forth in G.L. c. 40A, Section 10, have been met for the following reasons:

1. **That there are circumstances that exist relating to the soil conditions, shape, or topography of the land or structures that uniquely affect such land or structures but that do not affect generally the zoning district in which such land or structure is located;**

The lot shape and preexisting nature of the structure on the Premises are unique to it. If the proposed structure was set back 150 feet from the roadway, the structure would encroach substantially more into the wetland buffer zone. By reducing the front yard setback from 150 feet to 51.4 feet, there is greater flexibility to layout the parking area behind the proposed structure to reduce encroachment into the wetland buffer as shown on the Site Plan. In addition, the construction of the parking area will be less disruptive to the wetland buffer zone compared to the construction of the proposed building.

The proposed lesser side yard setback provides for improved traffic flow between the proposed structure and the Country Cupboard, owned by the Applicant, at 476 Main Street.

2. **Literal enforcement of the provisions of the bylaw would involve substantial hardship financial or otherwise to the Applicant;**

The Applicant's cost to construct would increase if the proposed structure were moved back to the 150 foot setback due to further encroachment into the wetland buffer zone. The increased encroachment would require further mitigation measures. In addition, it would place the proposed structure further back from the neighboring existing buildings, decreasing the visibility of the proposed structure to the Main Street traffic, thus impacting the marketability of the rental spaces to prospective tenants.

3. **The desired relief may be granted without substantial detriment to the public good.**

- The allowance of the requested relief will result in no threat of harm to the public good.
- The Applicant has operated the Country Cupboard at 476 Main Street adjacent to the Premises for approximately 30 years.
- The proposed use is allowed by the zoning bylaw for the Business Zoning District upon issuance of a Special Permit from the Planning Board.

- The building will be tastefully designed to be consistent with other buildings along Main Street. The Applicant intends to modify the façade of the Country Cupboard to have similar architectural features.
 - The proposed structure will not be located substantially closer to the street than the Country Cupboard at 476 Main Street (49.3 feet) or the Mobile Gas Station at 460 Main Street (50.1 feet).
 - The new and improved building will result in higher tax revenue to the Town.
4. **The desired relief may be granted without nullifying or substantially derogating from the intent and purpose of the Bolton Zoning Bylaws.**

The Applicant has no interest in proceeding under the Mixed Use Village Overlay District in which the Premises resides. Their experience and expertise over four decades in business has been in commercial not in residential development. However, it is worthy to note that the Planning Board under the Special Permit process, Section 250-23.2 J. (3) of the Code of the Town of Bolton, would have the authority to “approve decreased front yard or side yard setbacks to improve site design...or allow for consistency with the setbacks of abutting properties to allow new buildings to relate to existing adjacent structures”. The proposed Site Plan is consistent with these objectives. In addition, Section 250-23.2 K. (3) of the Code of the Town of Bolton encourages parking to be established within the back of proposed structures as shown on the Site Plan.

DECISION

Pursuant to G.L. c. 40A, Section 10 and Section 250-6 of the Code of the Town of Bolton, the Board, after public hearing and findings of fact, hereby grants the Petitioner’s requests for Variances, as follows:

Variances from Section 250-13.B of the Code of the Town of Bolton to permit the construction of a new building at 562 Main Street, Bolton, MA allowing for the following dimensional Variances from the zoning bylaw:

	Current	Required
A. Front Yard Setback	51.4 feet	150 feet
B. Side Yard Setback	25 feet	50 feet

RECORD OF VOTE

Appeals, if any, to this decision must be made pursuant to M.G.L. c.40A, Section 17 and must be filed within twenty (20) days after the date of filing of this decision in the office of the Bolton Town Clerk.

This decision shall not take effect until a copy of this decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after this decision has been filed in the office of the Town Clerk, and that no appeal has been filed within said twenty (20) days; or that, if such appeal has been filed, that it has been dismissed or denied. Further, this decision shall not take effect until it is recorded in the Worcester County Registry of Deeds and indexed in the grantor index under the name of the owner record, or is recorded and noted on the owner's certification of title.

The following members of the Zoning Board unanimously voted to grant the subject to the above-stated terms: Chairman, Gerard Ahearn, Matthew Hurd, Andy Kischitz, Bradley Reed, Kay Stoner, Associate, Jack Sargent.

A handwritten signature in cursive script, appearing to read "Gerard Ahearn", is written over a horizontal line.

Gerard Ahearn, Chairman
(On behalf of the Zoning Board of Appeals)

FILED WITH THE TOWN CLERK

Filed with the Town Clerk on June 24, 2015.

Pamela H. Powell
Pamela Powell, Town Clerk

2015 JUN 24 AM 9:46

CERTIFICATE OF NO APPEAL

The undersigned, being the Town Clerk of the Town of Bolton, certifies that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Date: July 15, 2015.

Pamela H. Powell
Pamela Powell, Town Clerk

Copy of Variance Findings and Decision mailed to:
Abutters
Surrounding Towns
Bolton Boards and Committees
Applicant

APPENDIX A RECORD DOCUMENTS

Original Application Documents

1. Application to ZBA;
2. Certified Abutters List from Bolton's Assessor's Office;
3. Brief to the Board stating the Applicant's request for relief from the provision of Section 250-13.B of the Code of the Town of Bolton dated May 18, 2015;
4. Premises Deed Copy;
5. Photographs of the existing Premises;
6. Architectural plan entitled "Exterior Elevations" prepared for 470 Main Street by Tuck & Tuck Architects dated May 2015;
7. Architectural plan entitled "First Floor Plan" prepared for 470 Main Street by Tuck & Tuck Architects dated May 2015; and
8. Plan entitled "Site Plan, 470 Main Street, Bolton, Massachusetts" prepared for Houde Realty Trust by Ducharme & Dillis Civil Design Group, Inc. dated April 6, 2015.