

# MODIFICATION OF PREVIOUS SPECIAL PERMIT

## The Commonwealth of Massachusetts

### TOWN OF LENOX

Filing fee is due with the petition. If hearing expenses exceed this amount the Zoning Board of Appeals will bill the petitioner.

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The undersigned hereby petitions the Town of Lenox Zoning Board of Appeals for:

- ☒ A Special Permit for exception under the provisions of Section 5.3.3 & 5.3.5 of the Town of Lenox Zoning By-Law.
- ☐ A Variance from the following provisions of Section \_\_\_\_\_ of the Town of Lenox Zoning By-Law.

To permit the following use or activity (describe proposed use or activity):

Amend Shed Special Permit Registered 9/27/2021 to allow electrification for Lights, Switches and Outlets.  
The shed will not be converted to a dwelling unit in the future.

See attached original Recorded Decision.

For premises:

Owner of Record MICHAEL DARBIN

Address 50 CLIFFWOOD STREET

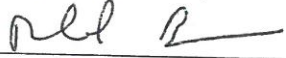
Map and Parcel MAP 46 - PARCEL 66

Zoned as R - 30

Deed Reference Book 219

Page 391

*(This information is available from the Assessor's Office or townoflenox.com in the Property Assessments-Online Database section.)*

Petitioner 

*(Your signature here also acknowledges that you agree to pay all hearing expenses relative to this petition.)*

Address (Mailing Address) 2049 MIDDLETOWN LINCROFT ROAD, MIDDLETOWN, NJ 07748

Telephone Number 732-778-5163

Email address MDARBIN01@gmail.com

Date 2/2/2023

TOWN OF LENOX  
ZONING BOARD OF APPEALS  
DECISION

On Wednesday, September 1, 2021 the Lenox Zoning Board of Appeals heard the Petition for a Special Permit by Michael Darbin and Janet Barcia, owners of the property located at 50 Cliffwood Street, Map 46 Parcel 66 in the R- 30 zone. The petition was filed on July 12, 2021, notice published in the Berkshire Eagle on July 20 and July 27, 2021 and a hearing was scheduled for August 4, 2021. This hearing was continued until August 11, 2021 as a site visit was requested and held on August 10, 2021. Following the site visit, the August 11, 2021 hearing was continued until September 1, 2021 and held by remote electronic connection.

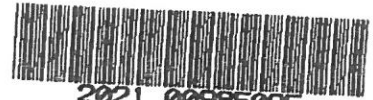
The Petition seeks a special permit under the provisions of Section 9.3.1 and 9.3.2 of the Zoning By-Law so that the Petitioners can construct a 20' x 28' shed in the rear of the property. The construction of this shed will require a special permit as the lot is nonconforming in size, and the proposed size of the shed will encroach on the side yard setback on both the northern and southern lot lines as the property is very narrow, 50 feet. In cases where lot size is nonconforming, the By-Law permits the Board to grant a special permit for constructing a shed or garage.

Members of the Board hearing the Petition Robert M. Fuster, Jr. Chair, Cliff Snyder, Jed Hall, Kimberly Duval and Albert Harper. The Petitioners were represented by Attorney William Martin, and Cam Brown, the architect of CSB Architecture and Design. The abutting neighbors at 52 Cliffwood, Neil and Jana Purdy were represented by Attorney Alexandra Glover and did not oppose the Petition for constructing the shed. Donald Fitzgerald, Lenox building inspector, also participated in the September 1 hearing and submitted written reports which are part of the record. No other members of the public participated in the hearing.

The proposed shed will be constructed on in-ground pillars and will not have electric, water or septic service. The shed will not have a drive way connection. The Petitioners asserted that they will not convert the shed to a dwelling unit in the future.

Following extensive discussion and argument, the public hearing was closed and the Board considered the requirements for granting a special permit under Section 3.4.2 of the By-Law. The Board considered whether the adverse effects of the proposed use will not outweigh its beneficial impacts on the town or the neighborhood. The Board considered the community needs served by the proposal, traffic and safety issues, adequacy of utilities, the neighborhood character, the impacts on the natural environment and potential economic and fiscal impact on the Town. After discussion, the Board found that the Petition would have no adverse impact to the neighborhood and abutters. The vote was five in favor of the Petition and zero opposed.

Any appeal from this Decision must be made pursuant to MGL Chapter 40 A, § 17, as amended, and must be filed within twenty (20) days of the filing of this Decision with the Lenox Town Clerk. Petitioners are also responsible for the filing, at least twenty (20) days after this Decision is filed with the Town Clerk, of a certified copy of the Decision with the Berkshire Middle District Registry of Deeds in Pittsfield, if no appeal has been filed within the aforementioned twenty (20) days. Petitioners are responsible for obtaining all necessary permits for this project.



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Page: 1 of 3 10/01/2021 03:52 PM

**TOWN OF LENOX  
ZONING BOARD OF APPEALS**

**NOTICE FOR RECORDING IN THE REGISTRY**

Notice is hereby given that a Special Permit will remain in effect in compliance with the statutory requirements as set forth in Chapter 40A MGL, as amended, by the Lenox Zoning Board of Appeals to:

PETITIONER: Michael Darbin and Janet Barcia

LAND OWNER: Michael Darbin and Janet Barcia

PREMISES: 50 Cliffwood Street, Lenox MA 01240

MAP AND PARCEL: 46-66

The decision of the Board is filed this date with the Town Clerk and the Planning Board.

Signed and certified this 7<sup>th</sup> day of the month of September the year of 2021.

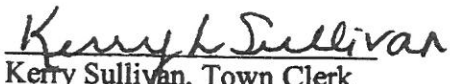
  
Jessica Cote, Land Use Assistant  
Zoning Board of Appeals

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**CERTIFICATE BY THE TOWN CLERK FOR FILING OF THE DECISION IN THE REGISTRY**

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



  
Kerry Sullivan, Town Clerk

September 27-2021  
Date

Filed this 7th day of September, 2021 with the Lenox Town Clerk, the Planning Board, the Building Inspector and the Zoning Board of Appeals

A handwritten signature in black ink, appearing to read "Albert B. Harper". The signature is fluid and cursive, with the first name "Albert" being more legible than the last name "Harper".

Albert B. Harper  
For the Lenox Zoning Board of Appeals