



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 FEB -2 A 9:03

TOWN CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. 16-02

PETITION OF RICHARD BARBIERI

DATE OF DECISION: JANUARY 19, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of RICHARD BARBIERI (hereinafter the Applicant), for property located at 21 WELD ST. This Decision is in response to a Petition for a Special Permit for a duplex as required by the Zoning By-Law (hereinafter the Application).

2. Property Owner and Applicant

Richard Barbieri
7 Daisley Place
Framingham, MA 01702

3. Location

Property is located at 21 Weld St and identified by Assessors' Parcel ID 142-23-3157-000 (hereinafter the Site).

4. Board Action

After due consideration of the Application, the record of proceedings, and based upon the findings set forth below, on January 19, 2016, the Board voted to GRANT a SPECIAL PERMIT by a unanimous vote in favor of the petition of three (3) members sitting on the Application. The record of the vote is stated as follows:

SUSAN S. CRAIGHEAD	YES
STEPHEN MELTZER	YES
KEVIN GATLIN	YES

5. Proceedings

The Application was received by the Board on December 4, 2015 pursuant to MGL, Ch. 40A, §9, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on January 19, 2016 at 7:00 P.M. in the Blumer Community Room of the Memorial Building. Board Members Susan S. Craighead, Stephen Meltzer, Kevin Gatlin, and Alternate Edward Cosgrove were present throughout the proceedings. The minutes of the public hearing and submissions on which this Decision is based, which together with this Decision constitute the record of the proceedings, may be referred to in the Office of the Zoning Board of Appeals at the Memorial Building.

6. Exhibits

Submitted for the Board's deliberation were the following exhibits:

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- 6.1. Application filed with the Building Official for a permit to build a new two-family home dated 12/3/2015.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on December 22, 2015.
- 6.3. Filing fee in the amount of \$300.00.
- 6.4. Parcel map with aerial imagery titled "Town of Framingham, Department of Public Works, 78 Leland St", stamped "Received" by the Zoning Board at the hearing on 1/19/2016.
- 6.5. "Revised Site Plan" dated 4/19/89, prepared by Selwyn & Kirwin Assoc., 14 Linden Avenue, Belmont, Mass.
- 6.6. Memo from the Conservation Administrator, dated 12/9/15, requesting the Applicant file a Request for Determination of Applicability (RDA) with the Conservation Commission.
- 6.7. Memo from the Planning Board Administrator, dated 1/4/16, referencing recent Zoning Bylaw changes and the need for an Approval Not Required determination from the Planning Board in order to subdivide the lots.
- 6.8. Plan entitled "ZBA Sketch in Framingham Massachusetts (Lot #26 & 27) 2A Universal Street", dated 12/2/15, prepared by Ronald R. Turchi Prof. Land Surveyor, 9 Gilmore Farm Road, Westborough, MA 01581.
- 6.9. Plan set including: "A1 Front Elevation", "A2 Right Elevation", "A3 Rear Elevation", and "A4 Left Elevation", dated 12/04/15, prepared by Peter C. Agostinelli, Agostinelli Design & Constr., 28 Bellmore Road, Framingham, MA 01702.

Exhibits 6.8 & 6.9 shall be hereinafter referred to as the "Plans."

7. Findings and Conclusions

Based upon its review of the Application, exhibits, and the public hearing thereon, the Board makes the following findings and conclusions:

- 7.1. The property is located within the General Residence (G) zoning district.
- 7.2. On December 3, 2015, the Building Official denied the Application for a permit to build a two-family structure on the premises under Section II.B.1.B of the Zoning By-Law.
- 7.3. On December 22, 2015, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit per the Zoning By-Law.
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on January 4 and 11, 2016 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. Town Meeting Member Frank DeMarco (Pct. 16) spoke in opposition to the proposed duplex, citing congestion in the area and conservation concerns.
- 7.5. The Applicant was present to explain that the purpose of his application is to obtain a Special Permit for a duplex. The property at 21 Weld St. will be subdivided and the new duplex will be accessed via Universal Street, a private way.

- 7.6. Discussion ensued regarding the lot layout, neighborhood makeup, available utilities, parking, and abutting lots. The Applicant stated the neighborhood has many larger scale apartment and condo complexes.
- 7.7. Neighbors spoke in opposition to the Application and had the following concerns: the lot should be kept as a single family use; the units are too big; and traffic is a problem.
- 7.8. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval of a Special Permit have been met:
- 7.8.1. The specific site is an appropriate one for such a use or structure. *The property is located in the General Residence zoning district which allows duplexes through a Special Permit. Additionally, other duplexes and multifamily buildings exist in the neighborhood.*
- 7.8.2. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. *Sufficient parking will be provided for the two units via two one-car garages and off-street parking in front of the garages.*
- 7.8.3. The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians.
- 7.8.4. The use or structure is consistent with the Intent of the district in which the use is proposed, and with the Purpose and Intent of this By-Law. *The property is located in the General Residence zoning district which allows duplexes through a Special Permit.*
- 7.8.5. All municipal services necessary to meet the needs of the proposed use are adequate and sufficient. *Water and sewer lines exist on Universal St.*
- 7.9. The Board grants this Special Permit subject to the following conditions:
- 7.9.1. The proposed establishment shall be developed as shown on the Plans.
- 7.10. This Decision applies only to the requested Special Permit. Other approvals or permits required by the By-Law, other governmental boards, agencies or bodies having jurisdiction, shall not be assumed or implied by this Decision.
- 7.11. If the rights authorized by this Special Permit are not exercised within two years of the date of filing of the Decision with the Town Clerk, said Special Permit shall lapse; provided, however, that the Board in its discretion and upon written application by the Applicant may extend the time for exercise of such rights for a period not to exceed six (6) months. A request to extend said time limits shall be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval. If the Board does not grant such an extension within thirty days of the date of application therefore, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to MGL, Ch. 40A, §9.
- 7.12. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of

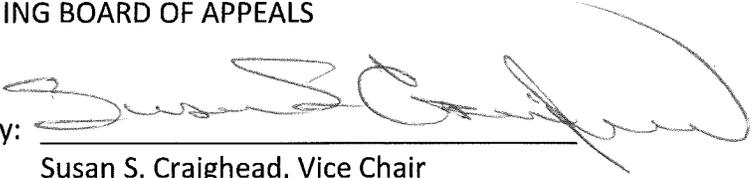
the recording, including recording information, shall be furnished to the Board and the Building Official.

7.13. The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the Town of Framingham.

8. Appeals

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, §17 and shall be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

ZONING BOARD OF APPEALS

By: 
Susan S. Craighead, Vice Chair