



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 MAR 22 P 3:34

TOWN CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. 16-03

PETITION OF ALAN & SONDR A GREENWALD

DATE OF DECISION: MARCH 8, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of ALAN & SONDR A GREENWALD (hereinafter the Applicant), for property located at 483 BELKNAP ROAD. This Decision is in response to a Petition for a Variance from side setback requirements of the Zoning By-Law (hereinafter the Application) to construct a one-car garage.

2. Property Owner and Applicant

Alan & Sondra Greenwald
27 Rockwood Lane
Upton, MA 01568

3. Location

Property is located at 483 Belknap Road and identified by Assessors' Parcel ID 066-78-0721-000 (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 March 8, 2016 the Board voted to GRANT the requested VARIANCE 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:

PHILIP R. OTTAVIANI, JR.	YES
JOSEPH NORTON	YES
STEPHEN MELTZER	YES

5. Proceedings

The Application was received by the Board on January 26, 2016 pursuant to MGL, Ch. 40A, §10, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on March 8, 2016 at 7:00 P.M. in the Blumer Community Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Joseph Norton, Stephen Meltzer, and Alternate Ted 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:

- 6.1. Application filed with the Building Official January 12, 2016 for a permit for an attached garage within the required side setback.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on February 16, 2016.
- 6.3. Filing fee in the amount of \$300.00.
- 6.4. Correspondence dated 2/17/2016 from the Applicant explaining that the drain easement shown on the original 12/16/2015 site plan was previously terminated, with attached supporting "Release and Termination of Easement" (2) and "Release of Interest in Easement".
- 6.5. Letter of support from abutters dated 2/27/2016.
- 6.6. Comment letter from the Planning Board Administrator dated 3/7/2016.
- 6.7. "Proposed Garage Sketch, Greenwald Residence," dated March 2016.
- 6.8. "Proposed Garage Plan, 483 Belknap Road, Framingham MA.," dated 12/16/2015, revised 2/10/2016, prepared by GLM Engineering Consultants, Inc., Holliston, Mass.

Exhibits 6.7 and 6.8 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 Single Residence R-3 zoning district.
- 7.2. On January 19, 2016, the Building Official denied the Application for a permit to place an attached 12' x 24' garage addition within the setback under Section IV.E.2 of the Zoning By-Law.
- 7.3. On February 16, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Variance from the Zoning By-Law.
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on February 21 and February 28, 2016 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. No Town Meeting Members or residents appeared at the hearing.
- 7.5. The Applicants were present and stated the purpose of the Application was to get a Variance to be able to install a 12' x 24' attached garage on the side of their house. The required side setback in the R-3 zoning district is fifteen (15) feet, and the rear corner of the garage would be located 9.3 feet from the property line. He explained that his nearest abutter had no objections and had provided a statement; and that there is a vegetated buffer between the two properties.
- 7.6. The Variance standard established by the G.L. c. 40A §10 and the Framingham Zoning By-Law is a demanding criterion. The Board must find that owing to circumstances relating to

the soil conditions, shape, or topography of such land or structures, which especially affect such land or structures but do not affect generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and 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 such ordinance or by-law. Also, the circumstances under which a Variance may be granted are not unlimited.

- 7.7. There are circumstances relating to the soil conditions, shape, or topography of the land or structures for which the Variance is being sought. *The Board finds that this parcel is unique, in that there is no other reasonable location for a garage.* Such circumstances especially affect such land or structures but do not affect generally the zoning district in which the land or structures are located.
- 7.8. Owing to such circumstances, a literal enforcement of the provisions of this By-law would involve substantial hardship, financial or otherwise, to the petitioner. *The value of the property is substantially diminished because it does not have a garage. There would be a substantial hardship to prevent them building a garage in this location.*
- 7.9. The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the By-Law or from the intent of the district in which the Variance is being sought. *The garage will be screened from view by vegetated buffer, and is consistent with the character and intent of the R-3 district and the By-law.*
- 7.10. The Board grants this Variance with the following condition:
 - 7.10.1. The proposed garage shall be located and constructed as shown on the Plans.
- 7.11. This Decision applies only to the requested Variance. 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.
- 7.12. If the rights authorized by this Variance are not exercised within one year of the date of grant of such Variance, such rights shall lapse. The Applicant may request an extension to the one-year period by submitting a written Application for extension prior to expiration of the one-year period. However, it is solely within the discretion of the Board to grant such an extension. An extension shall be for a period not to exceed six (6) months. If the Board fails to act on the request for extension within thirty days of the date of the requested extension, all rights authorized by this Variance shall lapse at the expiration of the one-year period. If the Variance lapses, such rights pertaining to the Variance may only be reestablished after notice and a new hearing pursuant to G.L. c. 40A, §10.
- 7.13. 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

7.14. 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: 
Philip R. Ottaviani, Jr., Chairman