



TOWN OF FRAMINGHAM  
ZONING BOARD OF APPEALS

150 Concord Street B2  
Framingham, MA 01702

2016 APR 26 P 2:34

TOWN CLERK  
FRAMINGHAM

BOARD OF APPEALS CASE NO. 16-09

PETITION OF BRYON & KATHRYN COLLINS

DATE OF DECISION: APRIL 12, 2016

**1. Application**

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of BRYON & KATHRYN COLLINS (hereinafter the Applicant), for property located at 32 WAVENEY ROAD. This Decision is in response to a Petition for a Variance from front and side setback requirements of the Zoning By-Law (hereinafter the Application) to construct a detached two-car garage.

**2. Property Owner and Applicant**

Bryon & Kathryn Collins  
32 Waveney Road  
Framingham, MA 01701

**3. Location**

Property is located at 32 Waveney Road and identified by Assessors' Parcel ID 074-97-9924-000 (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 April 12, 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
SUSAN S. CRAIGHEAD	YES
STEPHEN MELTZER	YES

**5. Proceedings**

The Application was received by the Board on March 17, 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 April 12, 2016 at 7:00 P.M. in the Blumer Community Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Susan S. Craighead, Stephen Meltzer, and Alternate Kevin Gatlin 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.

The Applicant was present and submitted a signed petition of support from abutters and stated the purpose of the Application was to get a Variance to be able to construct a garage within the required front and side setbacks. The required front and side setbacks in the R-4 zoning district are thirty (30) feet, and the garage will be located within these setbacks; 16.5 ft. from the front property line and 9.5 ft. from the side lot line. The Applicant noted that he will store a plow truck and power equipment within the structure, which would also contain a workshop.

Mr. Ottaviani commented that the proposed garage was aesthetically pleasing. Ms. Craighead commented that the lots in the neighborhood are generally constrained. She asked to clarify that the side of the garage would face the street. The Applicant responded affirmatively, and that it would have windows on the side. In response to a letter from the Planning Board raising concerns about the direction of stormwater runoff, Mr. Ottaviani suggested the installation of gutters to direct roof runoff.

## **6. Exhibits**

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

- 6.1. Application filed with the Building Official for a permit for a second two-car garage to be located within the required front and side setbacks, dated March 15, 2016.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on March 18, 2016.
- 6.3. Filing fee in the amount of \$300.00.
- 6.4. Letters of support from neighbors Jeff & Pam Bishop (03/29/16) and John Deem (03/26/16).
- 6.5. Proposed section drawings and photograph depicting the intended style of the garage.
- 6.6. Plan entitled "ZBA Petition Plan, 32 Waveney Road, Framingham, Mass." dated 1/22/2016, prepared by Connorstone Engineering, Northborough, Mass.

Exhibit 6.6 shall be hereinafter referred to as the "Plan."

## **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-4) zoning district.
- 7.2. On October 28, 2015, the Building Official denied the Application for a permit to place a detached two-car garage within the required front and side setbacks under Section IV.E.2 of the Zoning By-Law.
- 7.3. On March 18, 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 March 28 and April 4, 2016 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. No Town Meeting Members appeared at the hearing.

- 7.5. 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.
- 7.6. 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 due to its long narrow shape and slopes to the rear of the property.* Such circumstances especially affect such land or structures but do not affect generally the zoning district in which the land or structures are located.
- 7.7. Owing to such circumstances, a literal enforcement of the provisions of this By-law would involve substantial hardship, financial or otherwise, to the petitioner. *While the R-4 zoning district requires one-acre lots with 100 feet frontage and 30-foot front and side setbacks, the property is sloped and narrow toward the rear, leaving much of the land unbuildable.*
- 7.8. 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 proposed garage will not substantially derogate from the intent and purpose of the R-4 district. It will screen the paved parking area and vehicles, and is tastefully designed. No neighbors have expressed opposition to the structure.*
- 7.9. The Board grants this Variance with the following condition:
- 7.9.1. The proposed garage shall be located as shown on the Plan.
- 7.10. 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.
- 7.11. 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.
- 7.12. 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

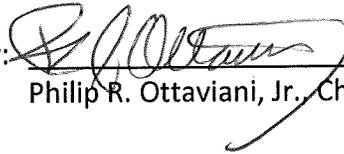
7.13. The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the Town of Framingham.

**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:



Philip R. Ottaviani, Jr., Chairman