



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 JUL 26 P 3:36

TOWN CLERK
FRAMINGHAM

BOARD OF APPEALS CASE NO. 16-19

PETITION OF PAULA LACHMAN

DATE OF DECISION: JULY 12, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of PAULA LACHMAN (hereinafter the Applicant), for property located at 246 COCHITUATE ROAD. This Decision is in response to a Petition for a USE VARIANCE for a hair salon in the Office & Professional (P) zoning district (hereinafter the Application).

2. Property Owner and Applicant

Paula Lachman
685 Water St.
Framingham, MA 01701

3. Location

Property is located at 246 Cochituate Road and identified by Assessors' Parcel ID 093-15-9282-000 (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 July 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
ROBERT SNIDER	YES
JOSEPH NORTON	YES

5. Proceedings

The Application was received by the Board on June 6, 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 July 12, 2016 at 7:30 P.M. in the Blumer Community Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Robert Snider, and Joseph Norton were present throughout the proceedings. Stephen Meltzer recused himself since he is an abutter of the subject property. 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 with her daughter and explained that she was seeking a use variance for a hair salon at the location. She has been a hairdresser in Framingham for 34 years and currently owns her own business on Worcester Road. Mr. Ottaviani read comments from the Fire Department requesting that all renovations comply with the Fire code, and from the Planning Board requesting that the Applicant provide street trees along the frontage of the site.

As the Applicant was requesting the same relief as previously granted under case #05-01, Mr. Ottaviani referenced the prior decision for findings and conditions. He questioned whether the parking requirements have changed since 2005, and noted that the project needs to conform with parking requirements. He asked for the business's hours of operation and said that the hours would be conditioned in the decision. Mr. Norton also questioned whether the Applicant would need to go before the Planning Board for the parking and site plan issues.

6. Exhibits

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

- 6.1. Application filed with the Building Official for Service Establishment in the P zone, dated 6/6/2016.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on June 17, 2016.
- 6.3. Filing fee in the amount of \$500.00.
- 6.4. ZBA decision in case #05-01 granting a use variance for a beauty salon in the Office & Professional (P) District.
- 6.5. "Plot Plan in Framingham, Mass.", dated February 13, 2002, prepared by Ronald R. Turchi, 11 Whippoorwill Lane, Ashland, Mass., with handwritten notations indicating parking locations and the intended removal of one-car garage.

Exhibit 6.5 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 Office & Professional (P) zoning district.
- 7.2. On June 6, 2016, the Building Official denied the Application for a beauty salon in the Office & Professional District under §II.B.5.f of the Zoning Bylaw.
- 7.3. On June 17, 2016, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Use Variance from the Zoning By-Law.
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on June 27 and July 4, 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.

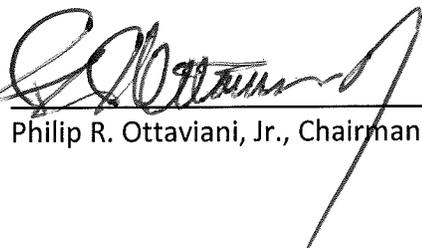
- 7.5. A hairdresser is included in the definition of “service establishment” according to §I.E.1 of the Zoning Bylaw. Service establishments are not permitted by right in the P zone. The Applicant is requesting a use variance as previously granted by the Board in 2005.
- 7.6. The Applicant has indicated the hours of operation to be 9:00 AM to 8:00 PM Tuesday through Thursday, and 9:00 AM to 4:00 PM Friday and Saturday. There are currently six hairdressers but they do not all work together at all times.
- 7.7. 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.
- 7.8. There are circumstances relating to the soil conditions, shape, or topography of the land or structures for which the Variance is being sought. *The site is appropriate for the Beauty Salon as proposed based on the small size of the parcel, the fact that the property is one of a few remaining residential uses in the Office and Professional District and Highway Corridor Overlay District and because it has direct access to Route 30 (Cochituate Road) a primarily commercial roadway. These characteristics make the lot suitable for the use proposed, but not necessarily suitable for other uses. The site is unique in that due to the size of the lot and the land use in the surrounding area, retaining this property as a residence is no longer feasible and it would be a hardship to have to continue the present use. A Beauty Salon is in keeping with the nature and style of the other activities within the area.*
- 7.9. 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 Board finds that it would be a substantial hardship to insist on the literal enforcement of the By-Law, given the unique circumstances relating to this site and the proposed Beauty Salon.*
- 7.10. 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 Board finds that relief from the use restriction can be granted without substantial detriment to the public good and without substantial derogation from the purpose and intent of the By-Law. The Beauty Salon will not create a negative effect on the aesthetics of the surrounding area, which consists of businesses and non-residential uses.*
- 7.11. The Board grants this Variance with the following condition:
- 7.11.1. The proposed beauty salon shall be located as shown on the Plan.
- 7.11.2. The beauty salon shall be operated as described in the petition as to the number of employees and hours of operations.

- 7.12. 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.
- 7.13. 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.
- 7.14. 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
- 7.15. 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