



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

BOARD OF APPEALS CASE NO. 16-37 2016 NOV -7 P 4: 321

PETITION OF ESTATE OF JEANNETTE LAWRENCE

DATE OF DECISION: OCTOBER 24, 2016

CLERK
Framingham, MA

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of the ESTATE OF JEANNETTE LAWRENCE (hereinafter the Applicant), for property located at 10 THAYER STREET. This Decision is in response to a Petition for a USE VARIANCE to construct two duplexes on the premises (hereinafter the Application).

2. Property Owner and Applicant

The Estate of Jeannette Lawrence c/o Attorney Roger Dowd
615 Concord Street
Framingham, MA 01702

3. Location

Property is located at 10 Thayer Street and identified by Assessors' Parcel ID 141-82-2143-000 (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 October 24, 2016 the Board voted to GRANT the requested USE 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:

SUSAN S. CRAIGHEAD	YES
STEPHEN MELTZER	YES
JOSEPH NORTON	YES

5. Proceedings

The Application was received by the Board on September 29, 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 October 24, 2016 at 7:30 P.M. in the Ablondi Room of the Memorial Building. Board Members Susan Craighead, Stephen Meltzer, Joseph Norton, and Alternate Edward "Ted" Cosgrove were present throughout the proceedings. Chairman Philip Ottaviani recused himself and sat in the audience. The minutes of the public hearing, minutes of the Board meetings at which the case was discussed, 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 stated that the purpose of the Application was to request a Use Variance to allow construction of two residential duplexes on a parcel zoned for

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manufacturing. Mr. Roger explained that in 2014, the ZBA granted him the requested Use Variance for three duplexes, conditioned upon receiving proper permitting from the Conservation Commission and the Planning Board. The Variance was not acted upon within one year of filing date, and therefore lapsed. Abutters voiced concerns regarding wetlands and the alteration of the neighborhood's character from single family owner occupied, to multi-family units. Ms. Craighead confirmed the Applicant has received approval from the Conservation Commission for two buildable units and from the Planning Board for two separate building lots. Ms. Craighead clarified that the proposed units are compliant.

6. Exhibits

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

- 6.1. Application filed with the Building Commissioner to construct two new duplexes dated September 26, 2016.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on September 30, 2016.
- 6.3. Filing fee in the amount of \$300.00
- 6.4. A memorandum in support of the application submitted by the Applicant and stamped "Received" October 24, 2016 by the Zoning Board Office.
- 6.5. Conservation Commission comments dated October 11, 2016.
- 6.6. Subdivision plan entitled "Plan of Land in Framingham, Mass" displaying Lot 1 and Lot 2 along with setback lines and lot dimensions, prepared by Sullivan Surveying Company, LLC., and dated April 11, 2016.
- 6.7. Site plan entitled "Proposed House Location Framingham, Mass" prepared by Sullivan Surveying Company, LLC., and dated March 9, 2016, revised August 3 and 17th, 2016.
- 6.8. Plan set entitled "Duplex Family Residence", displaying elevations, foundation and cross section plans, and first and second floor plans (sheets 1 to 3), prepared by R. C. Searles Associates, 17 Glenwood St., Holden, MA, and dated September 13, 2013.

Exhibits 6.6 to 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 General Manufacturing (M) zoning district.
- 7.2. On September 29, 2016, the Building Official denied the Application for building permits to build two new duplexes in this zoning district under §II.B.I.B of the Zoning By-Law.
- 7.3. On September 30, 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 October 9 and October 16, 2016 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. No Town Meeting Members appeared at the hearing.

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- 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, in that the site is surrounded by single and multi-family homes in a residential neighborhood. The zoning district line separating the General Residence and General Manufacturing districts cuts through Thayer Street at an angle and homes located on the west side of Thayer Street are zoned General Manufacturing. Actual manufacturing uses are separated from the neighborhood by the CSX railroad track.* 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. The Board finds that this parcel is unique and contains physical issues.
- 7.8. The relief can be granted without derogating from the intent of the by-law. *Residential uses would be less intensive than manufacturing uses, which the lot is zoned for. Thayer Street is a residential street and a manufacturing use is extremely unlikely to be established on the property.*
- 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.
- 7.10. The Board grants this Use Variance with the following conditions:
- 7.10.1. The Use Variance for four residential units is approved with a maximum of two building lots 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.

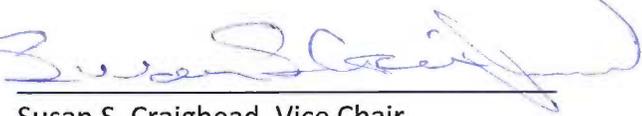
7.13. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of the recording, including 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: 

Susan S. Craighead, Vice Chair