



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

2016 NOV 29 P 3: 27

BOARD OF APPEALS CASE NO. 16-39

PETITION OF VADIM N. TRONTCHINSKI

DATE OF DECISION: NOVEMBER 15, 2016

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of VADIM TRONTCHINSKI (hereinafter the Applicant), for property located at 31 DONNA ROAD. This Decision is in response to a Petition for a Variance for a garage addition within required front setback of the Zoning By-Law (hereinafter the Application).

2. Property Owner and Applicant

Vadim Trontchinski
31 Donna Road
Framingham, MA 01701

3. Location

Property is located at 31 Donna Road and identified by Assessors' Parcel ID 092-85-4888-000 (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 November 15, 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 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 November 15, 2016 at 7:15 P.M. in the Blumer Community Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Susan S. Craighead, Stephen Meltzer, and Alternate Edward "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.

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The Applicant was present with his wife Alla Merkoulouva. Ms. Merkoulouva explained the petition requesting relief to attach a 17' x 28' one-car garage within the required front setback. She explained that she is the caretaker of her elderly mother who requires a minimization of exposure to icy conditions and that the previous owners converted the garage into the current living room area. She explained that the required front setback is 30 ft. and the closest point of the proposed garage would be 16 feet from the street. Ms. Merkoulouva commented that the proposed addition would be compliant with side setback requirements and that many properties in the neighborhood face similar constraints. Mr. Ottaviani commented that the lot is unique and a Variance would be required no matter where the garage would be placed on the property.

6. Exhibits

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

- 6.1. Application filed with the Building Official for one-car garage addition, denied on August 22, 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. Photographs depicting proposed shed to be removed, dwelling exterior, and aerial images of abutting properties with similar additions, stamped "Received" by ZBA staff on September 29, 2016.
- 6.5. Schematic section drawings entitled "31 Donna Rd., Framingham, MA, Addition, Sections 1 + 2", stamped "Received" by ZBA staff September 29, 2016, drafted by Frederick Weeks of Cityside Construction.
- 6.6. Elevation drawing entitled "Addition & Remodel, Trontchinski Residence", stamped "Received" by the ZBA staff September 29, 2016 and prepared by PNB Interior Design, Inc.
- 6.7. Site plan entitled "ZBA Sketch in Framingham, Massachusetts", dated August 10, 2016, prepared by P.N. Associates, Inc., 310 Oak Street, Shrewsbury, MA 01545.

Exhibits 6.5 to 6.7 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 Single Family Residence (R-1) zoning district.
- 7.2. On August 22, 2016, the Building Official denied the Application for a permit for a one-car garage addition, pursuant to Section IV.E.2 of the Zoning Bylaw.
- 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 Variance from the Zoning By-Law.

- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on October 31, and November 7, 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 required front setback in the R-1 zoning district is 30 feet. The proposed attached garage will be at minimum 16 feet and at maximum 18.5 feet within the required front setback.
- 7.6. The Board is satisfied that no direct abutters came forward to object to the proposed garage addition; the Applicant made a case that there is no other place on the property where a garage could be constructed, due to the unique shape of the lot; and that the proposed location would be most accessible and non-detrimental to the neighborhood.
- 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 Board finds that this parcel is unique, in that the lot is constrained and cannot accommodate a garage anywhere else.* Such circumstances especially affect such land or structures but do not affect generally the zoning district in which the land or structures are located.
- 7.9. Owing to such circumstances, a literal enforcement of the provisions of this By-law would involve substantial hardship, financial or otherwise, to the petitioner. *A literal enforcement of the provisions of the Bylaw would prevent a garage from being constructed on the property, which would cause hardship to the Applicant's family as they stated the need is due to an elderly family member.*
- 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. *Other homes in the neighborhood have similar garages and no neighbors have objected to the proposed project.*
- 7.11. The Board grants this Variance with the following conditions:
- 7.11.1. The proposed garage addition shall be located and constructed as shown on the Plans.
- 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

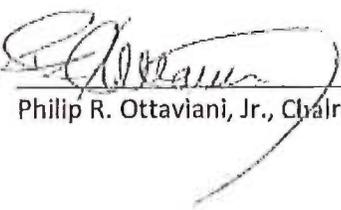
7.15. The terms, conditions and provisions of this Decision shall run with the land and shall be binding upon the Applicant, its successors in interest and assigns, and shall be enforceable by the Town of Framingham.

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