



TOWN OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

BOARD OF APPEALS CASE NO. 17-10

PETITION OF FRANK CHAN

2017 FEB 27 P 5:00

DATE OF DECISION: FEBRUARY 13, 2017

TOWN CLERK
FRAMINGHAM

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of FRANK CHAN (hereinafter the Applicant), for property located at 24 TARALLI TERRACE. This Decision is in response to a Petition for a Finding for an addition, extension, and structural change to a pre-existing non-conforming residential two-family structure as required by the Zoning By-Law (hereinafter the Application).

2. Applicant

Frank Chan
57 Holbrook Road
Quincy, MA 02171

Property Owner

Jianqing Luo
31 Pennsylvania Ave
Newton, MA 02464

3. Location

Property is located at 24 Taralli Terrace and identified by Assessors' Parcel ID 129-26-5736-000 (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 February 13, 2017 the Board voted to GRANT the requested FINDING 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
STEPHEN MELTZER	YES
SUSAN S. CRAIGHEAD	YES

5. Proceedings

The Application was received by the Board on January 13, 2017 pursuant to MGL, Ch. 40A, §6, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on February 13, 2017 at 7:15 P.M. in the Blumer Community Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Stephen Meltzer, Susan Craighead, and Alternate John "Rick" McKenna 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 property owner's contractor, Mr. Frank Chan, was present and explained that a few months ago the structure was damaged by fire. He explained his request to add a second floor on top of the existing first floor and a two floor deck on the rear of the property. Mr. Ottaviani asked why the stairs would not be enclosed. Mr. Chan responded that having an open staircase is preferable to connect the first and second floor decks. Mr. Meltzer commented that the change is minimal and will be an improvement. Board members voiced no concern.

6. Exhibits

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

- 6.1. Application filed with the Building Official for addition, extension, and structural change to an existing nonconforming two family structure, dated January 12, 2017.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on January 19, 2017.
- 6.3. Filing fee in the amount of \$300.00.
- 6.4. Planning Board comments dated January 24, 2017.
- 6.5. Eight (8) color photographs depicting current property conditions, stamped "Received" by ZBA staff on February 13, 2017.
- 6.6. Site plan entitled "Plan Showing Proposed Additions", dated December 20, 2016, and prepared by D. O'Brien Land Surveying, 31 Hayward Street Unit 3-G, Franklin, MA 02038.
- 6.7. Plan set entitled "Renovation Construction and Addition 24 Taralle Ter, Framingham, Massachusetts" dated December 6, 2016, prepared by T Design, LLC, 1248 Randolph Ave, Milton, MA 02186, displaying Existing Basement Plan (A-1), Existing First Floor Plan (A-2), Proposed First Floor Plan (A-3), Existing Second Floor Plan (A-4), Proposed Second Floor Plan (A-5), Existing and Proposed Front Elevation View (A-6), Existing and Proposed Right Elevation View (A-7), Existing and Proposed Left Elevation View (A-8), Existing and Proposed Rear Elevation View (A-9), First Floor Framing Plan (S-1), Second Floor Framing Plan (S-2), Roof Framing Plan (S-3), and Cross Section at Addition (S-4).

Exhibits 6.6 and 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 the General Manufacturing (M) zoning district.
- 7.2. On January 12, 2017 the Building Commissioner denied the application for an addition, extension, and structural change, and determined that a Finding was required for the proposed second floor addition under §I.D.5.b of the Zoning By-Law.
- 7.3. On January 19, 2017, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Finding pursuant to the By-law and M.G.L. c. 40A, §6.
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on January 29 and February 5, 2017 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. A Finding is necessary because the property is lawfully pre-existing non-conforming with respect to lot area and setbacks. The proposed addition of a second floor level is within the minimum required front and side set-backs but will not extend closer to the lot lines than the existing structure. The footprint will be unchanged; only an additional story and deck will be added.
- 7.6. G.L. c. 40A, §6 applies to pre-existing, nonconforming uses or structures and requires a Finding when the nonconforming structure is extended or altered in such a way that the extension does not at all affect the nonconformity. *The Board finds that the proposed addition, extension, and structural change will not increase the nonconforming nature of the structure, and that it will not be substantially more detrimental to the area than the existing structure.*
- 7.7. The Board grants this Application with the following condition:
- 7.7.1. The addition shall be located and constructed as shown on the Plans.
- 7.8. This Decision applies only to the requested Finding. 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.
- 7.9. If the rights authorized by this Finding are not exercised within two years of the date of the filing of this Decision with the Town Clerk, said Finding shall lapse. If construction or substantial use has not commenced within this two-year period, the Applicant may request an extension by submitting a written Application to the Board which contains an explanation of good cause for the failure to exercise the rights of this Finding. A written request for an extension must be submitted to the Board at least 30 days prior to the expiration of the two-year period.
- 7.10. 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.
- 7.11. 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

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