



**TOWN OF FRAMINGHAM**  
ZONING BOARD OF APPEALS

150 Concord Street, B2  
Framingham, MA 01702

2017 APR - 3 A 9:44

TOWN CLERK  
FRAMINGHAM

**BOARD OF APPEALS CASE NO. 17-12**

**PETITION OF CARLOS HANZI**

**DATE OF DECISION: MARCH 21, 2017**

**1. Application**

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of CARLOS HANZI (hereinafter the Applicant), for property located at 357 BISHOP STREET. This Decision is in response to a Petition for a Special Permit for a residential duplex as required by the Zoning By-Law (hereinafter the Application).

**2. Property Owner**

Derek Davis  
PO Box 2066  
Framingham, MA 01703

**Applicant**

Carlos Hanzi  
21 Loring Drive  
Ashland, MA 01721

**3. Location**

Property is located at 357 Bishop Street and identified by Assessors' Parcel ID 133-20-6447-000 (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 March 21, 2017 the Board voted to GRANT a SPECIAL PERMIT 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 February 3, 2017 pursuant to MGL, Ch. 40A, §9, and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on March 21, 2017 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 Robert Snider 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, Mr. Carlos Hanzi, was present with the project Architect, Mr. Dennis Colwell. Mr. Colwell explained the request to erect a duplex, in replacement of a recently demolished one. He explained that the proposal satisfies all zoning requirements including lot size, frontage, open space, lot coverage, height, and setbacks. Conservation Administrator, Mr. Robert McArthur, explained that the Conservation Commission had already permitted the project; Mr. Hanzi inquired on the possibility of increasing the footprint but decided to use the existing active permit. Mr. McArthur mentioned that the Conservation Commission believed the wetlands on site have expanded. Mr. Hanzi submitted a petition of support signed by six neighbors. Mr. David Yeager (23 C St.) voiced concern regarding trash, dead trees, poison ivy, soil level, and the chain link fence. Mr. Ottaviani clarified that the proposal would be built up with no basement due to the wetland conditions. Mr. Yujian Zheng (82 C St.) voiced concern regarding compliance with the Conservation Commission Order of Conditions.

## **6. Exhibits**

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

- 6.1. Application for Hearing before the Zoning Board of Appeals filed with the Town Clerk on February 6, 2017.
- 6.2. Filing fee in the amount of \$300.00.
- 6.3. Application filed with the Building Official for a permit to construct a duplex on the premises dated February 3, 2017.
- 6.4. Petition signatures (6) in support of the requested Special Permit, stamped "Received" by ZBA staff on March 21, 2017.
- 6.5. Renderings depicting front view, rear view, and perspective, prepared by Dennis Colwell Architects, Inc., and stamped "Received" by ZBA staff March 15, 2017.
- 6.6. Plan set entitled "Custom 2-Family Residence" including Front Elevation, Ground Floor Plan, Second Floor Plan, and Third Floor Plan (A1.0), prepared by Dennis Colwell Architects, Inc., 34 School St., Ste. 204, Foxborough, MA 02035, and dated March 13, 2017.
- 6.7. Site plan entitled "Proposed Site Plan", prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, and dated February 3, 2017,

Exhibits 6.5, 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 Residence (G) zoning district.
- 7.2. On February 3, 2017, the Building Official denied the Application for a permit to construct a duplex under Section II.B.1.B of the Zoning By-Law.
- 7.3. On February 6, 2017, the Applicant filed with the Town Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit from the Zoning By-Law.

- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on March 6 and March 13, 2017 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 Applicant is before the Board for a Special Permit for a duplex on the premises. The Applicant and his architect stated the duplex would contain two 1,800 square foot condominiums. Since there are wetlands to the rear of the property and the water table is high, the structure would be built on a slab with no basement and would contain three floors. The main living levels would be on the second and third floors.
- 7.6. There was no opposition from neighbors to the proposed duplex. However, neighbors did ask for the property to be cleaned up.
- 7.7. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval of a Special Permit have been met:
- 7.7.1. The specific site is an appropriate one for such a use or structure. *The property is located in the General Residence zoning district which allows duplexes through a Special Permit. Additionally, other duplexes exist in the neighborhood.*
- 7.7.2. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. *Sufficient parking will be provided for the two units via two 1-car garages and drive ways.*
- 7.7.3. The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians. *The proposed development has been permitted by the Conservation Commission. The grading of the site will not result in increased drainage onto abutting properties.*
- 7.7.4. The use or structure is consistent with the Intent of the district in which the use is proposed, and with the Purpose and Intent of this By-Law. *The property is located in the General Residence zoning district which allows duplexes through a Special Permit.*
- 7.7.5. All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient. *All services necessary to meet the needs of the proposed use are adequate and sufficient.*
- 7.8. The Board grants this Special Permit subject to the following conditions:
- 7.8.1. The proposed duplex shall be developed as shown on the Plans.
- 7.8.2. Existing trash, dead trees, brush, and poison ivy must be removed. Soil level shall not be increased. Subject to Conservation Commission approval, the existing chain link fence shall be replaced with a vinyl or wooden fence.
- 7.9. This Decision applies only to the requested Special Permit. 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.
- 7.10. If the rights authorized by this Special Permit are not exercised within two years of the date of filing of the Decision with the Town Clerk, said Special Permit shall lapse; provided, however, that the Board in its discretion and upon written application by the Applicant

may extend the time for exercise of such rights for a period not to exceed six (6) months. A request to extend said time limits shall be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, and to require any appropriate changes to this approval. If the Board does not grant such an extension within thirty days of the date of application therefore, and upon the expiration of the original two-year period, such rights may be reestablished only after notice and a new hearing pursuant to MGL, Ch. 40A, §9.

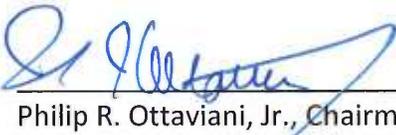
7.11. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of the recording, including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

7.12. 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