

2018 APR 24 P 4: 52

**BOARD OF APPEALS CASE NO. 18-02**

**PETITION OF RENATO OLIVEIRA and SIDNEI CAMARO**

**DATE OF DECISION: APRIL 10, 2018**

**1. Application**

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of RENATO OLIVEIRA and SIDNEI CAMARO (hereinafter the Applicant), for property located at 10-12 FREDERICK STREET. This Decision is in response to a Petition to renew SPECIAL PERMIT decision #14-16 for auto repair as required by the Zoning By-Law (hereinafter the Application).

**2. Applicant**

Renato Oliveira  
64 Main Street  
Blackstone, MA 01504

**Property Owner**

Sidnei Camaro  
29 Sunshine Drive  
Marlborough, MA 01752

**3. Location**

Property is located at 10-12 Frederick Street and identified by Assessors' Parcel ID 128-97-0091-000 (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 April 10, 2018 the Board voted to GRANT the requested 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 January 19, 2018 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 April 10, 2018 at 7:00 P.M. in the Ablondi Room of the Memorial Building. This case was originally scheduled for the March 13 meeting; however, it was rescheduled to April 10 due to inclement weather. Board Members Philip R. Ottaviani, Jr., Susan S. Craighead, Stephen Meltzer, and Alternate 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.

*Dedicated to excellence in public service.*

The property owner, Mr. Sidnei Camaro, was present with the business owner, Mr. Renato Oliveira. Mr. Camaro explained that they were recently notified by Code Enforcement that Mr. Oliveira's operation had been operating on an expired Special Permit filed May 30, 2014. Mr. Ottaviani questioned how long the permit ran for. Mr. Meltzer clarified that the permit expired May 2015. Mr. Camaro explained that the only change made was the building owner, but the operation has remained in compliance since the Special Permit was granted in 2014.

The Board discussed and agreed that an indefinite Special Permit would be appropriate so the Applicant did not have to return.

## **6. Exhibits**

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

- 6.1. Letter from Code Enforcement, dated January 8, 2018.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the City Clerk on January 19, 2018.
- 6.3. Filing fee in the amount of \$500.00.
- 6.4. Email communication from the Property Owner consenting to a continuation to the April 10 meeting.
- 6.5. ZBA decision #14-16, originally filed with the City Clerk May 30, 2014.
- 6.6. Hand-drawn site plan, undated from previous case file no. 14-16, showing building floor plan and parking plan.
- 6.7. Plot Plan entitled "Plot Plan in Framingham, MA," prepared by CF Engineering LLC, 142 Fisher Street, Westborough, Mass., dated December 14, 2017.

Exhibit 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 Central Business (CB) zoning district.
- 7.2. On January 8, 2018, Code Enforcement issued a letter of violation under §7.8.4 of Special Permit decision #14-16, which limited the special permit to one year, expiring May 30, 2015.
- 7.3. On January 19, 2018, the Applicant filed with the City Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining a Special Permit pursuant to the By-law and M.G.L. c. 40A, §9.
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on February 26 and March 13, 2018 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11. The public hearing was re-advertised and published on March 26 and April 2, 2018.
- 7.5. The Applicant is before the Board to renew the expired Special Permit #14-16 to continue operation of an existing auto repair business within an existing bay of a building.

- 7.6. Subject to the conditions stated in this Decision, the Board finds that the following conditions of approval of a Special Permit have been met:
- 7.6.1. The specific site is an appropriate one for such a use or structure. *The current site operates partially as auto repair. The Applicant wishes to continue operation of the auto repair shop within one of the existing bays.*
  - 7.6.2. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including adequate off-street parking. *Adequate facilities will be provided, as this is an existing auto repair site. No changes to the site are proposed.*
  - 7.6.3. The use or structure as developed will not create a hazard to abutters, vehicles, or pedestrians. *Access to the site will not change; therefore, there will not be a hazard to abutters, vehicles, or pedestrians.*
  - 7.6.4. 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 use will be located on a site which currently contains auto repair uses.*
  - 7.6.5. All municipal services necessary to meet the needs of the proposed use must be adequate and sufficient. *There will not be a need for increased municipal services.*
- 7.7. The Board grants this Special Permit subject to the following conditions:
- 7.7.1. The auto repair use shall be located as shown on the Plans.
  - 7.7.2. Hours of operation will be Monday-Friday 8:00 AM to 7:00 PM, Saturday 8:00 AM to 5:00 PM, and Sunday closed.
  - 7.7.3. All auto repairs must be done inside the bay/building. No outside storage of vehicles is allowed.
  - 7.7.4. There will be no auto body repair done at this location.
- 7.8. 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.
- 7.9. If the rights authorized by this Special Permit are not exercised within three years of the date of filing of the Decision with the City 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. A request for extension shall require a new public hearing pursuant to MGL, Ch. 40A, §9. 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.
- 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 City 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 City Clerk.

ZONING BOARD OF APPEALS

By: \_\_\_\_\_  
Philip R. Ottaviani, Jr., Chairman