

CITY OF FRAMINGHAM
ZONING BOARD OF APPEALS

150 Concord Street B2
Framingham, MA 01702

CITY OF FRAMINGHAM
CITY CLERK'S OFFICE

2018 MAY 24 P 12:45

BOARD OF APPEALS CASE NO. 18-10

PETITION OF MIKE AND TANYA LIPP

DATE OF DECISION: MAY 15, 2018

1. Application

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of MIKE AND TANYA LIPP (hereinafter the Applicant), for property located at 45A FLANAGAN DRIVE. This Decision is in response to a Petition for a Variance for an addition within the required side yard setback as specified in the Zoning By-Law (hereinafter the Application).

2. Property Owner

Mike and Tanya Lipp
45A Flanagan Drive
Framingham, MA 01701

Applicant's Agent

Denis Ingham
3 Lanes End
Framingham, MA 01702

3. Location

Property is located at 45A Flanagan Drive and identified by Assessors' Parcel ID 054-40-1324-000 (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 May 15, 2018 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 CRAIGHEAD	YES
STEPHEN MELTZER	YES

5. Proceedings

The Application was received by the Board on April 11, 2018 pursuant to MGL, Ch. 40A, §10, and the Framingham Zoning By-Law. The Board considered the Application at a duly noticed public hearing on May 15, 2018 at 7:30 P.M. in the Ablondi Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Susan Craighead, Stephen Meltzer, and Alternate Joseph Norton 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.

The property owners, Mr. and Mrs. Lipp were present with their Architect, Mr. Denis Ingham. Mr. Ingham explained the proposal for a second floor bedroom addition to accommodate the

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Lipp's growing family. He stated and Mr. Ottaviani agreed, the site was very constrained and irregularly shaped. Mr. Ingham explained that the proposal was amended after meeting with the abutter to address concerns. Board members voiced no objection to the amendments and voiced no concerns.

6. Exhibits

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

- 6.1. Application filed with the Building Official for a single garage to be added to existing double garage, denied on March 26, 2018.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the City Clerk on April 20, 2018.
- 6.3. Filing fee in the amount of \$300.00.
- 6.4. Memorandum prepared by the Applicant, dated May 11, 2018.
- 6.5. Site plan entitled "Variance Plan", prepared by HS&T Group, Inc., 75 Hammond Street, 2nd floor, Worcester, MA 01610, and dated March 12, 2018.
- 6.6. Plan set entitled "Renovations/Addition to the: Lipp Residence" including project description (SK-ZBAO); Front Elevation – Existing, Front Elevation – Proposed (SK-ZBAO1); Side Elevation – Existing, Side Elevation – Proposed (SK-ZBAO2); Side Elevation – Proposed, Rear Elevation – Proposed (SK-ZBAO3); Front Floor Plan – Proposed (SK-ZBAO4); Second Floor Plan – Proposed (SK-ZBAO5); Partial Floor Plan – No Variance (SK-ZBAO6); Side Elevation – No Variance, Front Elevation – No Variance (SK-ZBAO7); prepared by Context Studios, LLC, Framingham, MA 01702, dated March 28, 2018. Revised plans depicting First Floor Plans (A-1); Second Floor Plans (A-2); Front Elevation – West, Side Elevation – North (A-4R); Side Elevation (project South), Rear Elevation (project East), Misc. Side Elevation (A-5R), dated April 30, 2018.

Exhibits 6.5 and 6.6 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-4) zoning district.
- 7.2. On March 26, 2018, the Building Official denied the Application for a permit for a single garage addition to an existing double garage, pursuant to Section IV.E.2 of the Zoning Bylaw.
- 7.3. On April 20, 2018, the Applicant filed with the City 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 April 30 and May 7, 2018 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11.

- 7.5. The required side setback in the R-4 zoning district is 30 feet. The proposed addition would be 19.1 feet from the front property line.
- 7.6. The Board is satisfied that no direct abutters came forward to object to the proposed addition. The Applicant made a case 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 an odd-shaped lot, which limits where an addition may be placed.* 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 the addition from being constructed on the property, which would cause hardship to the Applicant.*
- 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. *No neighbors have objected to the proposed project. The proposed addition will not be visually obtrusive to the neighborhood.*
- 7.11. The Board grants this Variance with the following conditions:
- 7.11.1. The proposed 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.

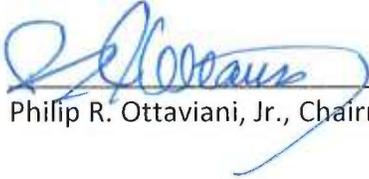
7.14. This Decision shall be recorded at (as appropriate) the Middlesex South District Registry of Deeds or District of the Land Court prior to the issuance of a Building Permit. A copy of the recorded or filed Decision certified by the Registry, and notification by the owner of the recording, including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