

2018 DEC 21 A 9 44

**BOARD OF APPEALS CASE NO. 18-36**

**PETITION OF DIMITRI NTATSI**

**DATE OF DECISION: DECEMBER 11, 2018**

**1. Application**

This document is the DECISION of the Framingham Zoning Board of Appeals (hereinafter the Board) on the Application of DIMITRI NTATSI (hereinafter the Applicant), for property located at 961 WORCESTER RD. This Decision is in response to a Petition for a Finding for expansion of a pre-existing, non-conforming structure and Variances for lot coverage and minimum landscaped open space as required by the Zoning By-Law (hereinafter the Application).

**2. Applicant & Property Owner**

Dimitri Ntatsis  
84 Village Street  
Medway, MA 02053

**3. Location**

Property is located at 961 WORCESTER RD and identified by Assessors' Parcel ID 090-34-3775-000 (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 December 11, 2018 the Board voted to DENY the requested FINDING by a unanimous vote 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
RICK MCKENNA	YES

**5. Proceedings**

The Application was received by the Board on November 14, 2018 pursuant to MGL, Ch. 40A, §6 and §10 and the Framingham Zoning By-Law. The Application was considered by the Board at a duly noticed public hearing of the Board on December 11, 2018 at 7:00 P.M. in the Ablondi Room of the Memorial Building. Board Members Philip R. Ottaviani, Jr., Stephen Meltzer, Rick McKenna, 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.

Mr. Milton Manousaridis and Mr. Emmanuel Andrade were present on behalf of the applicant and introduced themselves as the architectural team. Mr. Manousaridis introduced the project and explained the proposal.

Mr. Ottaviani read into the record several letters of opposition from neighbors and City Councilors. The applicant had also submitted a written response to such concerns, and explained he could not be present due to health concerns. Mr. Manousaridis explained his client's responses to the concerns about student rentals in that particular location.

Several members of the public rose to speak in opposition, including Mr. Henry Field, Ms. Alana Lipkin, Mr. Norman Budge, Ms. Susan Bernstein, and Ms. Beth Greeley. The Board noted their concerns and proceeded to discuss specifics about the proposed rooftop deck, the lack of landscaped open space, and lack of parking on the property. Mr. Meltzer noted that on the application the Applicant responded "no" to the question of whether there were circumstances relating to soil, shape, or topography of the land or structures for which the Variance was being sought. He moved to deny.

## **6. Exhibits**

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

- 6.1. Application filed with the Building Official for a permit to add a second story to a pre-existing nonconforming structure dated November 8, 2018.
- 6.2. Application for Hearing before the Zoning Board of Appeals filed with the City Clerk on November 15, 2018.
- 6.3. Filing fee in the amount of \$500.00.
- 6.4. Comment letters from the following: Cindy Walsh (12/9/18), City Councilor George King (12/7/18), Beth Greeley (12/9/18), Stephen Greeley (12/9/18), City Councilor Adam Steiner (12/9/18), Henry Field and Beryl Bergen (12/7/18), Dimitri Ntatsis (12/11/18).
- 6.5. Conservation Commission comments dated 12/4/18.
- 6.6. "Existing Conditions Plan of Land" dated July 31, 2018 and prepared by A.S. Elliott Associates, P.O. Box 85 Hopedale, Massachusetts.
- 6.7. Plan set entitled "University Pizza", dated 10/31/2018, prepared by archspaces and including the following sheets: Existing Site Plan (X-1), Existing Floor Plans (X-2), Existing Elevation (X-3), Proposed Site Plan (A-1), Proposed Floor Plans (A-2, A-3), and Proposed Elevations (A-4, A-5, A-6).

Exhibit 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:

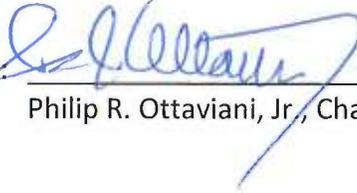
- 7.1. The property is located within the Neighborhood Business (B-1) zoning district.

- 7.2. On November 8, 2018, the Building Official denied the Application for a permit to add a second story to a pre-existing nonconforming structure under Sections IV.E.2 and I.D.8.b of the Zoning By-Law.
- 7.3. On November 15, 2018, the Applicant filed with the City Clerk an Application for Hearing before the Zoning Board of Appeals for the purpose of obtaining Variances and a Finding pursuant to the By-law and M.G.L. c. 40A, §10 and §6.
- 7.4. Notice of the public hearing was duly published in "THE METROWEST DAILY NEWS" on November 27 and December 4, 2018 and mailed to all parties-in-interest, as defined by G.L. c. 40A, §11.
- 7.5. The Applicant is seeking to add a second story on top of a pre-existing nonconforming single-story structure, currently a pizza restaurant. The planned second story would contain two apartments, likely to be rented to students as it is located directly across Route 9 from Framingham State University. The addition itself would require a Section 6 Finding for expansion of a nonconforming structure, as the lot area is 3,329 square feet, less than the required 4,000 square feet.
- 7.6. The proposal would also require Variances for insufficient landscaped open space (LOS) and excessive lot coverage. The LOS requirement for any residential use is 30% and the proposal would provide 6%. The existing lot coverage is 54% compared to the maximum of 35%, while the proposed addition would increase the lot coverage to 60%.
- 7.7. Board members noted the concerns of residents about the encroachment of student housing in the area and the impact that existing rental housing has had on the neighborhood. There were concerns about the impact that additional rental housing would have in this particular congested location; that the rooftop deck and apartments would result in increased noise and other nuisances; and that parking was not provided on site.
- 7.8. Regardless of the validity of neighbors' concerns, the Board finds that the criteria for granting a Variance have not been met. When asked on the application whether there was something unique about the soil, shape, or topography of the land or structures for which the Variance was being sought, as required by MGL, Ch. 40A Section 10 and the Framingham Zoning By-law, the Applicant responded "no". The Applicant has not demonstrated a unique situation that would result in a substantial hardship if denied the requested relief.
- 7.9. Furthermore, the Board is not obliged to allow expansion of a non-conforming structure where it finds that the expansion would increase the non-conformity. This project would indeed increase the nonconforming nature of the property by expanding the lot coverage.
- 7.10. Whereas the criteria for the requested Variances and Finding have not been met, the petition is hereby DENIED.

**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