



Town of Hopkinton

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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES JUNE 2, 2015

Acting Chairman Charles Koontz opened the Hopkinton Zoning Board of Adjustment meeting of Tuesday, June 2, 2015, at 5:30 PM in the Hopkinton Town Hall. Members present: Toni Gray, Gregory McLeod, Daniel Rinden and Jessica Scheinman. Staff present: Planning Director Karen Robertson.

Note: The Zoning Board of Adjustment's Rules of Procedure was available during the application process and additional copies were available at the meeting for the general public.

I. Application(s).

#2015-4 James Martin Variance to construct an attached garage having less than the required sideline setback for the R-4 district. The property is owned by James and Amy Martin, located at 1007 Hopkinton Road, shown on Tax Map 258 as Lot 59. The application was submitted in accordance with Zoning Ordinance 4.2 Table of Dimensional Requirements.

Mr. Martin addressed the Board advising that the existing one-car garage is extremely narrow. Currently, the garage has a cold storage coat closet extending from the house into the garage.

Mrs. Gray questioned whether the garage could be constructed on the other side of the residence. Mr. Martin replied yes, however, indicated that by relocating the garage they would need to relocate the driveway across the front lawn.

At this time, Mr. Martin reviewed the site plan with the Board showing the existing driveway, garage, and proposed new garage. The new garage would be constructed attached to the existing one-bay garage, but setback 4-feet.

Ms. Scheinman suggested that if the existing one-bay garage was not being used for storage a second-bay could be constructed in compliance with the setback requirements for the district. Mr. Martin responded by indicating that the existing one-bay garage would need to be demolished due to its inadequate size. He noted that, due to its size, he had a difficult time parking a Toyota Corolla in the one-bay garage.

Mr. Koontz questioned whether the new garage would be used for storage of hazardous materials, such as gas. The reason for the questions is because setbacks are necessary for safety reasons. It is important that emergency vehicles are able to access all sides of a structure. Mr. Martin agreed, noting that gas (lawnmower) will be stored in the garage; however, there is more than sufficient space between his residence and his neighbors for emergency vehicle access.

Adopted: 7/07/2015.

As there was no one present in the audience, the Board unanimously agreed to waive the reading of the Applicant's written response to the criteria for a Variance.

For the record, the Mr. Martin's written response for a Variance as outlined in Section XV of the Zoning Ordinance was as follows:

- 1. The proposed use would not diminish surrounding property values because:**
"Surrounding property values would not be diminished by allowing our garage to be 23-feet to the side setback instead of the 30-feet because: 1. The garage will be next to wooded land that includes a seasonal wetland/stream and is generally not buildable. It would not impact my neighbor's view or ability to use the land (see pictures) 2. The garage would be comparable or consistent with most of the houses/garages of my abutters or in the neighborhood (see pictures) of property Map 258, Lot 13 (across the street) – Garage is closer to the road than 60-feet. House is closer to the road than 60-feet. House is closer to side setback than 30-feet. Property Map 258, Lot 58 (abutter) – House is closer to side setback than 30-feet. Property Alcott – House is closer to front and side setbacks."
- 2. Granting the Variance would not be contrary to the public interest because:**
"Granting our request to have our two car garage to be 23-feet to our property line instead of the needed 30-feet would not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public in any conceivable way. Granting the variance would not unduly violate the basic zoning objectives given that the current neighborhood has many houses and structures that are closer to the property lines or the road than the R-4 zoning requirements. See pictures for house at Map 258, Lot 58; house and garage at Map 258, Lot 13; house at Map 258, Alcott."
- 3. By granting the Variance substantial justice would be done because:**
"By denying my request for a Variance there is no benefit to the general public. Instead, an approval of our request for a Variance would have benefit to the general public by enhancing the property value of my house which has two benefits for the general public – one, increased property tax income for the Town and increased property values for my property can have a positive impact on the property values of my neighbors."
- 4. The spirit and intent of the Ordinance will not be broken by granting the Variance because:** "Granting the Variance would not violate basic zoning objectives and would not threaten the public health, safety or welfare. Granting the Variance would not change the character of the existing area or allow us to be dissimilar to houses directly next to me and across from us. See pictures for house at Map 258, Lot 58; house and garage at Map 258, Lot 13; house at Map 258, Alcott."
- 5. Literal enforcement of the Ordinance results in unnecessary hardship.**
 - (a) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area.**

- (i) **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.** “Application of the Zoning Ordinance in such a way to deny my request for a Variance would not advance the purpose of the Zoning Ordinance in a fair and substantial way considering the properties all around mine that do not adhere to the Zoning Ordinance (see pictures provided for earlier questions).”
- (ii) **The proposed use is a reasonable one.** “The use of my land to have standard garage 23-feet to the property line versus 30-feet is reasonable given the other properties in my general neighborhood. To not allow me to have my garage in light of the other properties would be an unnecessary hardship.”

There was no one in the audience to offer public testimony.

Mrs. Gray, seconded by Mr. Rinden, moved to **APPROVE** the Variance (#2015-4) as presented. Motion carried unanimously (Gray, Rinden, McLeod, Scheinman and Koontz). The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance.

Reasons for approval as follows:

1. There was no evidence that surrounding property values would diminish as a result of constructing the garage with less than the side line setback. While there are other homes and garages in the area that do not meet the setback requirements, it was noted that those structures most likely were constructed prior to the adoption of zoning (1964) and are therefore grandfathered.
2. There was no evidence that the public's interest would be impacted as a result of constructing the garage with less than the side line setback. There are other homes and garages in the area having less than the required setbacks that have not been shown to negatively impact the public's interest.
3. Substantial Justice: The addition of a garage to the residence is anticipated to have little to no impact on the public. In other words, the public would realize no appreciable gain from denial of the Variance. Based on the location of the residence on the property, the garage having less than the required side line setback will most likely be unnoticeable as the house is setback approximately 110-feet from the front property line and the abutting residence is setback even further.
4. The spirit and intent of the Ordinance will not be broken by granting the Variance as the addition of the garage having less than the required setback will not change the character of the surrounding area. There are residences and garages in close proximity to the Martin property that are even closer to the property lines than that proposed by Mr. Martin.
5. In this case, requiring the Applicant to meet the side line setback requirement is not necessary in order to give full effect to the purpose of the Zoning Ordinance. The property will continue to be used for residential purposes with adequate space between the structures for emergency vehicles. Again, based on the location of the residence on the property, the garage having less than the required side line setback will most likely

be unnoticeable as the house is setback approximately 110-feet from the front property line and the abutting residence is setback even further.

II. Review of the Minutes and Notice of Decision of May 5, 2015.

Mrs. Gray, seconded by Mr. Koontz, moved to **APPROVE** the Minutes and Notice of Decision of May 5, 2015 as presented. Motion passed (4-0-1) with Ms. Scheinman abstaining as she was not present at the meeting.

III. Other Business.

- a) Annual appointment of Chairperson. The Board unanimously agreed to appoint Mr. Koontz as Chairman for administrative purposes with the understanding that on a rotating schedule there will be a different Board member overseeing the actual meetings.
- b) Schedule of Applications. Mrs. Robertson provided the Board with a brief overview of anticipated applications (Variance/Special Exception) for upcoming meetings.

IV. Adjournment.

Mrs. Gray, seconded by Mr. Rinden, moved to **ADJOURN** the meeting at 6:25 PM. Motion carried unanimously. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Tuesday, July 7, 2015, at the Hopkinton Town Hall.

Karen Robertson
Planning Director