



Town of Hopkinton

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HOPKINTON ZONING BOARD OF ADJUSTMENT

MINUTES

JUNE 6, 2017

Members present: Chairman Daniel Rinden, Toni Gray, Charles Koontz, Gregory McLeod and Seth Greenblott. 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. **Call to Order.** Chairman Rinden called the meeting to order at 5:30 PM in the Hopkinton Town Hall.

II. **Application(s).**

Variance (#2017-01), Applicant: Geoff & Danielle Fitzgerald, Location: 596 Gould Hill Road, Tax Map 241, Lot 31, R-2 District. Applicant proposed to erect a detached accessory building (garage) having less than the required front setback as referenced in Sections 4.2 and 4.4.1 of the Zoning Ordinance. Property owned by Fitzgerald One Family Trust.

Mr. Fitzgerald addressed the Board explaining that at the time of the renovation to their home they believed that the remnants of a stonewall was the side property line. However, after having the property surveyed, they learned that the property line was actually 24-feet closer than they had originally assumed. This meant that the proposed detached garage would need to be closer to the home than originally planned. In the new location there is a steep slope, and the garage will obstruct the view of their neighbors located across the street.

For the record, the 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:* "The proposed location of the garage with the variance granted has been selected will minimize the garage and keep the sightline to the view open. The garage will be built on site with the same architectural design of the home. We have tried to build our home in respect to the preservation of our neighbors view, and the placement of the garage closer to the road is also under that consideration. Therefore, the placement of the proposed garage will not interfere with our neighbors view, or with the people utilizing the street."
- 2) *Granting the Variance would not be contrary to the public interest because:* "There are many homes along Gould Hill and the adjacent streets that have structures closer than the 40 foot setback. The proposed garage would fit in with the style of the neighborhood since there are many detached garages and sheds in the surrounding properties. The abutters and the public's views have been taken into consideration with the planning of the proposed garage placement, so they would not be blocked."

Adopted: 09/06/2017

- 3) *By granting the Variance substantial justice would be done because:* “Currently, the property does not have a garage, and one is needed. By approving the variance, the garage can be placed in a spot that is consistent with other neighborhood structures, follows the topography of the land (it starts to drop off more quickly further down), while also doing the best to preserve the view for others.”
- 4) *The spirit and intent of the Ordinance will not be broken by granting the Variance because:* “The location of the garage will not change the character of the surrounding area. The proposed garage will be constructed on site so that it is architecturally consistent with the design of the residence.”
- 5) *Literal enforcement of the Ordinance results in unnecessary hardship:* “The setback requirements are intended to ensure that there is an appropriate buffer/open space maintained between lots and structures. The house addition (which was completed last year) and the placement of the proposed garage were based on an assumed property line: a rock wall fragment. This was assumed by our abutters, the previous owners, the tax map, and us. We decided to double check the boundary, and it was approximately 24 feet closer to our home. We need to put a garage on this side of our house due to access to the front door; with the lot line changed it has tightened up the front yard.

There would be an unnecessary hardship if we had the proposed garage 40 feet back instead of 20. We would be forced to have a steeper driveway, the garage base would need to be built up to grade, and the garage structure would become more visible to the abutters and the public. The proposed garage placement takes advantage of the existing contours of the land, and minimizes visual impact of a needed garage in a highly visible location.”

Ms. Gray suggested that the neighbors, across the street, would not have an obstructed view due to the elevation of their homes. In response, Mrs. Fitzgerald explained how there would be an impact in the neighbors view at different times. Furthermore, she suggested that the optimal location of the garage would be to construct it closer to the front door of their home, which due to the slope it would require the garage to be located closer to the road.

In reviewing the aerial pictures, Mr. Rinden noted that it appears that there are other properties along Gould Hill Road that have structures close to the road. Mrs. Fitzgerald replied yes; noting that the house at Gould Hill Farm is very close to the road.

Mr. Greenblott questioned the difference in the grade should the garage be set back on the property. Mr. Fitzgerald referenced the septic design that had shown the steep slope.

Chairman Rinden opened the public hearing portion of the meeting with abutter Erick Leadbeater speaking in favor of the proposal. Mr. Leadbeater spoke about the proximity of the homes to Gould Hill Road, and the views that the residents have along Gould Hill Road. He also noted the physical conditions of the Fitzgerald property that impact the placement of the garage, such as the location of a culvert, telephone pole and the steep slope.

Chairman Rinden declared the public hearing closed.

During deliberation, Mrs. Gray noted the unique nature of the lot. Mr. Greenblott concurred, referencing the grade of the property and the location of the culvert and telephone pole. Mr. McLeod noted that there are homes that are grandfathered that are closer to the road than that being proposed by the Fitzgeralds.

Toni Gray, seconded by Charles Koontz, motioned to **APPROVE** the application for Variance (**#2017-01**) as presented. Motion carried in the affirmative (Gray, Koontz, McLeod, Greenblott and Rinden). 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 the detached accessory building (garage) being constructed 20-feet, rather than 40-feet, from the front setback. The building will be located along a street with existing residences and accessory buildings that have less than the required 40-foot front setback. There was one abutter present that spoke in favor.
- 2) There was no evidence that the public's interest would be impacted as a result of the accessory building being constructed having less than the required 40-foot front setback. Certified notice was provided to the abutters and public notice of the proceedings was published in the Concord Monitor. Subsequently, there was only one member of the public present at the meeting.
- 3) Substantial Justice: There are at least four (4) other structures along Gould Hill road that are closer to the front setback than proposed by the Applicant. When considering the physical characteristics of the property, and the fact that there were no objections from abutters, it is anticipated that the location of the garage will have little to no impact on the abutters or general public. In other words, the public would realize no appreciable gain from denial of the Variance.
- 4) The spirit and intent of the Ordinance will not be broken by granting the Variance as the location of the garage will not change the character of the surrounding area. Requiring the Applicant to reduce the size of the garage and/or to meet the setback is not necessary in order to give full effect to the purpose of the Zoning Ordinance. The accessory garage will be constructed so that it is architecturally consistent with the design of the residence, and will be no closer to Gould Hill Road than other existing grandfathered structures. Furthermore, the property will continue to be used for residential purposes, which is consistent with the uses in the area.
- 5) Literal enforcement of the Ordinance will result in an unnecessary hardship. The setback requirements are intended to ensure that there is an appropriate buffer/open space maintained between lots and structures. When taking into consideration the location of the existing residence and septic system, the steep topography, and the views of the abutters, the location proposed is reasonable.

Special Exception (#2017-02), Applicant: 879 Maple Street, LLC, Location: 879 Maple Street, Tax Map 228, Lot 25, M-1 District. Applicant proposed manufacturing uses in accordance with Zoning Ordinance Table of Uses 3.6.G.1. Property currently owned by Crathern Family Holdings, LLC.

Bryan Pellerin and Earle Davis addressed the Planning Board explaining that 879 Maple Street, LLC intends to purchase the existing commercial building from the Crathern Family Holdings, LLC and wants to be sure that the permits for the uses at the property are up-to-date. Manufacturing uses requires a Special Exception; while, the office and warehousing uses are permitted by right in the M-1 (industrial) district. The Applicant is scheduled to appear before the Planning Board for Site Plan Review at their June 13, 2017 meeting.

Mr. Pellerin explained that the building was built in stages in the early 1970's to the mid 1990's, and is approximately 40,000 SF of office, warehouse and manufacturing space. The Cratherns originally operated an engineering design and manufacturing of machinery business from 1972 to 2002. Currently, there are mixed tenants with IRG Building Products, LLC utilizing 23,000 SF for millwork/cabinetry manufacturing, warehousing and office, Microdaq utilizing 6,000 SF for office, warehousing and assembly, and KPMB occupying 4,900 SF for office and warehousing.

Applicant's response to the criteria for a Special Exception as outlined in Section XV of the Zoning Ordinance was as follows:

- 1) *Standards provided by this Ordinance for the particular use permitted by Special Exception.* "Manufacturing is permitted in the M-1 zone by special exception pursuant to Section 3.6(G)(1) of the Hopkinton Zoning Ordinance."
- 2) *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.* "The manufacturing uses on the property have existed for several years and are contained entirely within the structure. A dust collection system is used in the production area to collect and reduce dust. All materials are used and disposed of in accordance with environmental regulations. These uses have been conducted on the property for many years without any hazard to the public."
- 3) *No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.* "The property is in the M-1 zone, right off Exit 6, I-89. The existing building has been a commercial/manufacturing facility for many decades. The McLane facility across the street is much larger in scope. There is no change in the essential characteristics of the neighborhood from this application. The manufacturing uses on the property have existed for some time and have not changed the neighborhood in any way. There will be no impact on property values."
- 4) *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.* "The uses on the property have existed for some time. There is no traffic issue at the site as a result of the current uses at the property, nor will there be in the future as there is more than ample parking."
- 5) *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.* "The property is served by private water, sewer and waste disposal. There has not been, nor will there be, any increased demand on police, fire protection or schools."

- 6) *No significant increase of storm water runoff onto adjacent property or streets.* “There have been no changes to the existing site since the early 1990’s, nor are there changes being proposed. Therefore, there will not be any increase of storm water runoff.”
- 7) *An appropriate location for the proposed use.* “The property has been used for commercial and manufacturing uses for many decades. It is in the M-1 zone, which is designed to accommodate these types of uses. The use of the property is consistent with the McLane facility across the street, which is much larger in scope. The current uses on the property have existed for several years and are compatible with existing zoning and other uses in the area.”
- 8) *Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.* “The existing uses have no impact the health and safety of residents or others in the area. All manufacturing is conducted within the structure and in compliance with all safety regulations. It is hopeful that the full use of the property will benefit and encourage the use and development of adjacent properties in the future.”
- 9) *In the public interest and in the spirit of the ordinance.* “Increasing business development in the M-1 zone is in the public interest. The Zoning Ordinance allows manufacturing in the M-1 zone by Special Exception. The existing uses at the property are consistent with the spirit of the Ordinance.”

Mr. Davis provided a brief overview of his business, IRG Products, LLC. He explained how most of the building is used by IRG for millwork manufacturing, office and warehousing. IRG provides high-end millwork/cabinetry used in colleges, museums and other places, such as the JFK Library. Mr. Davis started the business in 2009 and now has 16 employees, but is growing each year.

Mr. Koontz inquired about the dust collection system. In response, Mr. Davis reviewed the existing and proposed dust collection system used in the production area to collect and reduce dust. All materials are used and disposed of in accordance with environmental standards. As the products being produced require an environment of little to no dust, a newer central dust collection system will be installed. The building and proposed system had been reviewed by Acting Fire Chief Sean Murray.

Chairman Rinden opened the public hearing portion of the meeting with Selectman and Economic Development Committee Member Bob Gerseny advising that the Committee would like to see more of these types of businesses along Maple Street, near Exit 6.

Chairman Rinden declared the public hearing closed.

During deliberation, Mrs. Gray noted the Applicant met all criteria to be granted a Special Exception. Mr. Greenblott and Mr. Koontz concurred.

Charles Koontz, seconded by Greg McLeod, motioned to **APPROVE** the application for Special Exception (**#2017-02**) as presented. Motion carried in the affirmative (Gray, Koontz, McLeod, Greenblott and Rinden). The Applicant successful addressed all criteria to be granted a Special Exception as outlined in section XV of the Zoning Ordinance.

III. Review of the Zoning Board of Adjustment Minutes and Notice of Decision of November 2, 2016.

Toni Gray, seconded by Charles Koontz, motioned to **APPROVE** the Minutes and Notice of Decision of November 2, 2016 as presented. Motion carried in the affirmative.

IV. Adjournment.

Toni Gray, seconded by Charles Koontz, motioned to **ADJOURN** the meeting at 6:40 PM. Motion carried in the affirmative. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Wednesday, July 5, 2016, at the Hopkinton Town Hall.

Karen Robertson
Planning Director