



TOWN OF HOPKINTON

OFFICE OF
BOARD OF APPEALS

TOWN HALL
18 MAIN STREET – 3RD FLOOR
HOPKINTON, MASSACHUSETTS 01748-3209

WAYNE R. DAVIES, Chairman
ROBERT W. FOSTER, Vice Chairman
THOMAS J. GARABEDIAN, Clerk

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February 9, 2005

DECISION

RE: Application for Special Permit filed by **Rachel and Lee Ehrenzeller of 5 Ursula Drive, Hopkinton, MA, 01748** regarding property of **Rachel and Lee Ehrenzeller** of the same address (Assessors' Map R30, Block 99 Lot 149; Middlesex South District Registry of Deeds **Book 27490 at Page 495**), **Hopkinton, MA, 01748** (hereinafter the "Property").

Introduction

The Massachusetts Zoning Act having been duly complied with regarding notice, a Public Hearing was held on January 12, 2005 at 8:15 PM in the Hopkinton Town Hall.

Requested Relief

The Applicant seeks relief to construct a single bay, freestanding garage on their property which would not meet the side setback requirements of the Hopkinton zoning bylaw. The property is located in the RB zoning district and requires a 25 foot side setback. The garage is proposed to be located so that it encroaches five feet into the setback requirement.

Section 210-119 of the Hopkinton Zoning Code allows for relief from the side setback requirement in the case of a narrow, shallow or irregular lot upon the grant of a Special Permit by the Board of Appeals. The applicant requests a Special Permit for relief under this Section.

Special Permit Review Standard

Required side yard and rear yard areas may be varied in the case of an irregular, narrow or shallow lot, or a lot unusual in shape of topography, upon the granting of a Special Permit by the Board of Appeals. Zoning By-law s. 210-119.

Special Permits, where granted, must be in harmony with the general purpose and intent of the zoning by-laws. Special Permits are granted for those specific uses which are deemed necessary or desirable but which are not allowed as of right because of their potential for incompatibility with the characteristics of the zoning district. Special Permits are granted only after weighing the benefits and detriments of a proposal. No one possesses a “right” to a Special Permit and the Board may deny an application for such relief in its discretion. In all matters on which it has jurisdiction to act, the Board of Appeals shall give due consideration to promoting the public health, safety, convenience and welfare, shall encourage the most appropriate use of land, and shall permit no building or use injurious, noxious, offensive, or detrimental to the neighborhood. To this end, it may prescribe appropriate conditions and safeguards in each case.

Discussion

The Applicant appeared at the public hearing and presented her case for the requested relief which is that the subject property represents a narrow lot and the requested relief would be in harmony with the general purpose and intent of the by-laws.

Decision

Based on the Application, presentation of the Applicant, documentation and testimony presented at the Public Hearing, a Special Permit providing five feet of side setback relief was granted as follows:

1. A special permit was granted under Section 210-119 on a finding that the lot was narrow and that the five feet of relief would not be detrimental to the public good or derogate from the intent of the Zoning By-laws.

On a motion to grant, the Special Permit was granted as aforesaid by the following vote:

Wayne R. Davies, Chairman	Yes
Robert W. Foster, Vice Chairman	Yes
Thomas J. Garabedian, Clerk	Yes
Patricia Rackauskis	Yes
Henry R. Kunicki	Yes

The Petition for Special Permit is hereby **GRANTED**.

Thomas J. Garabedian, Clerk

Any and all plans or specifications submitted to the Board of Appeals that detail construction or improvements to be undertaken or performed in conjunction with the relief granted hereunder, are hereby made express conditions of the issuance of this Decision and are incorporated herein by reference. Unless this Decision expressly provides otherwise, the rights and privileges granted under a Variance run with the land; and the rights and privileges granted under a Special Permit and Appeal are personal to the Applicant or Appellant and do not run with the land; except for a Special Permit issued pursuant to Zoning By-law 210-119 for relief from side and rear set back requirements, which shall run with the land.

No Variance or Special Permit, or any extension, modification, or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed in the office of the town clerk and no appeal has been filed, shall be recorded at the Middlesex District Registry of Deeds in Cambridge, Massachusetts in accordance with MGL c. 40A s. 11. Appeal of this Decision, if any, shall be made pursuant to MGL c. 40A s. 17 and shall be filed within twenty (20) days after the date of filing of this Decision with the office of the Town Clerk.