



2022 APR 20 PM 1:38

TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS

Special Permit

DENIED

26 Ardmore Road, LLC, applicant
26 Ardmore Road
Map 106, Parcel 34

February 17, 2022

26 Ardmore Road, LLC, applicant, applied to the Board of Appeals for a Special Permit under Sections 6.1.2 and any other applicable Sections of the By-Law to allow one additional garage space. This request is associated with the demolition and reconstruction of a new single-family home with an attached garage. The property is located at 26 Ardmore Road, Needham, MA in the Single Residence B (SRB) District. A public hearing was held remotely on Zoom, on Thursday, February 17, 2022, at 7:30 p.m.

Documents of Record:

- Application for Hearing, Clerk stamped January 24, 2022.
- Existing Condition Plan prepared by Mikhail R. Deychman, stamped by Michael Belski, Jr., professional land surveyor, dated January 17, 2022.
- Proposed Plan prepared by Mikhail R. Deychman, stamped by Michael Belski, Jr., professional land surveyor, dated January 21, 2022.
- Floor Plans and Elevations A-1.1-3, A2.1-2.4 prepared by McKay Architects, stamped by Michael McKay Professional Architect, dated January 21, 2022.
- Memo of Support prepared by George Giunta, Jr., dated February 8, 2022.
- Letter from Lee Newman, Director of Planning and Community Development, dated February 15, 2022.
- Letter from Dave Roche, Building Commissioner, dated February 8, 2022.
- Letter from Thomas A. Ryder, Assistant Town Engineer, dated February 8, 2022.
- Email from Tara Gurge, Assistant Public Health Director, February 8, 2022.

February 17, 2022

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; Howard S. Goldman, Member. Also participating was Peter Friedenberg, Associate Member and Nik Ligris, Associate Member. Mr. Schneider opened the hearing at 7:35 p.m. by reading the public notice.

George Giunta, Jr., attorney representing the applicant, reported that the lot contains 17,622 square feet with 94 feet of frontage. The property is currently occupied by a split-level single family with an attached garage. The applicant proposes to demolish the house and replace it with a new single family that will meet all the dimension and density requirements of the By-Law.

The applicant is seeking a Special Permit for a third garage. All three garages will be located on the front of the property. The third garage is small a single bay attached one-story structure and adjacent to the two-bay garage.

Mr. Giunta noted that the third single garage will not change the use or character of the neighborhood, will have a positive financial effect on the neighboring properties and will not add noise, odor or glare.

The lot is an oversize lot at nearly twice the size required under the By-Law for the SRB district and has frontage 14' wider than required. Mr. Giunta reported that there were other third car garages in the neighborhood - 23 Grasmere Road and 40 Ardmore Road.

Mr. Goldman thought the design fit in the neighborhood. He inquired about the type of exterior lighting proposed for the garage. Mr. Giunta responded that the proposed lighting will point downward and will be contained on the property.

Comments received:

- Planning Board had no comment.
- Engineering Department noted that the plans are to be revised, prior to receiving a building permit, showing erosion controls and stormwater mitigation system based on impervious area of the site.
- Building Department had no comment.
- The Health Department noted if pest concerns arise that a certified pest control service be hired to eliminate a pest activity.

Vitaly Shumerov, 25 Ardmore Road, asked about the location of the garages. Mr. Giunta responded that the garages are located in the front with the garage doors facing the side.

Heejen Perry, 34 Ardmore Street, wanted to know how the steep grade and the trees between the properties were being addressed. Mr. Giunta said the grading is a common issue and will be dealt with. Ms. Perry thought the project too large for the lot and was concerned about the glare issues.

Mr. Schneider noted that, if there are issues about glare from the garage, they should be taken to

the Building Commissioner. The size and location of the house are outside the purview of the Board. The allowance of a third garage was the only issue before the Board.

Mr. Ligris said that the Board was essentially determining the type of door for the space – a garage door or a door - as the space was allowable by right.

Jeffrey Allen, attorney representing Nina Cammarata, 20 Ardmore Road, wanted to know how the grading and vegetation between the properties would be addressed. There were concerns about the solid wall and windows facing his client. He wanted to see a grading and landscape plan.

Mr. Giunta responded that the Special Permit was for a third garage. No landscaping or grading plans were required. He thought a discussion about screening was sufficient. The garage space complied with the by-right guidelines and the only issue was the type of door.

Mr. Allen preferred a grading and landscape plan and was surprised the developer had not reached out to his clients. Gene Voloshin, the developer, said the new house will be 14 ft. from the property line.

Mr. Tamkin was not inclined to require a grading or landscape plan, but did want to hear the developer's plans and was open for the parties meeting to discuss the issue.

Mr. Voloshin responded that a landscape plan was not a requirement with third car garages and would be excessive. He will be planting on both sides of the property. He agreed there was a 1 ft. to 1 ½ ft. slope between the properties. However, there is a chain link fence that belongs to 20 Ardmore Road that is on his property. In addition, there are a dozen, mature pine trees with small crowns along the property he will be removing because they present a safety hazard.

With the 12 trees being removed, Mr. Allen wanted the properties to be properly screened and for a landscape plan to be provided.

Mr. Giunta argued that the removal of the trees has no bearing on a decision for a 3rd car garage. Mr. Giunta countered that the garage space was a bump out and was not a solid wall. He thought a landscape plan was onerous. He was concerned about a garage door triggering a full landscape plan with its associated time and cost. Mr. Allen disagreed. He was not requesting a full landscaping plan, only on the side abutting his client. He requested a continuance to discuss the common lot line. He was not in opposition of the project.

Mr. Voloshin was open to discussing the matter with the abutter. However, he was against it being a requirement for a third garage.

Mr. Goldman thought discussing the issue without a landscaping plan was problematic. He wanted to see how the screening and grading will be handled.

Mr. Tamkin supported a continuance to allow a discussion between parties. He did not want to require a landscape plan.

Mr. Ligris noted that the decision is really about a door type. And that the garage space was the least visible aspect of the project.

Mr. Friedenbergr agreed with Mr. Tamkin. The space can be built by-right and he did not want the Board policing matters outside the Board's purview.

Mr. Giunta was agreeable for the matter to be continued and allow the parties to discuss and come to an agreement.

Mr. Goldman moved to continue the Public Hearing to the March 17, 2022 meeting. Mr. Tamkin seconded the motion. The motion was unanimously approved.

The meeting adjourned at 8:20 p.m.

March 17, 2022

The Board included Jon D. Schneider, Howard S. Goldman, Member; and Nik Ligris, Associate Member. Also participating was Peter Friedenbergr, Associate Member. Mr. Schneider opened the hearing at 7:33 p.m. by reading the public notice.

Mr. Giunta said that the applicant and neighbor have met and discussed extensive changes which includes excavation and the take down of trees. They are in agreement in principle. Pending are the final costs - the excavation cost on the neighbor's side is \$25,000. Both parties will continue to work to arrive at an outcome that is attractive for both parties. None of these discussions are pertinent to the third garage and Mr. Giunta requested that the Special Permit be granted.

Mr. Ligris moved to grant a Special Permit under Section 6.2.1 of the By-Law to allow a third garage at 26 Ardmore Road. Mr. Goldman seconded the motion.

As a discretionary permit, Mr. Goldman would like to hear from the parties about the extensive changes proposed. He was troubled going forward when there were concerns raised by the neighbors at the last hearing who were absent.

Mr. Schneider disagreed and thought it inappropriate for the Board to be discussing issues that are not pertinent to the third garage. The size, landscape, and the design were as of right issues outside the Board's purview. The Board's issue is the third garage and whether the garage is detrimental to the neighborhood. Mr. Schneider was satisfied with Mr. Giunta's presentation about the progress made between the parties and presumed that the neighbor is no longer objecting by their absence at the meeting.

Mr. Friedenbergr shared Mr. Goldman's discomfort about proceeding without the neighbor. He felt that the Board had gotten into the matters raised by the neighbor and the Board should see the matters to a conclusion. The continuance was to give time to the parties to reach an agreement.

Mr. Schneider disagreed that the Board had agreed to take up the matters raised by the neighbors and thought the only thing the Board had done was to continue the matter so the parties could talk. Based on the report of discussions that transpired over the month, Mr. Schneider felt the request was satisfied. Mr. Friedenberg believed giving time to discuss implied reaching an agreement as a result of the talks.

Mr. Goldman understood the determination criteria for a Special Permit was subject to Section 7.5.2.1(c) where a project *is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area*. Mr. Goldman believed the removal of 12 trees was a significant change to the site. Mr. Schneider understood the reference to mean the design of the garage and not the trees.

Mr. Goldman would like to continue the public hearing to hear from the neighbors. He believed the role of the Board was to listen to the concerns raised.

Mr. Ligris disagreed in continuing the matter. He believed the neighbors had counsel and ample public notice. The applicant can build the space by right; and the issue is the type of door to be installed on a side that does not face the concerned neighbor. His motion to approve the third garage still stood.

Mr. Voloshin interjected that he had three meetings with the neighbors. They had no issues with the garage; removing the fence from his property; or the excavating/grading in his yard. Mr. Voloshin will be responsible for the cost of the removal the trees and plantings on his site. The majority of the work is the excavation on the neighbors' property which is the responsibility of the neighbor. They are working on the details of the cost.

Mr. Goldman moved to continue the meeting to hear from both parties. Mr. Goldman believed there was a lot of positive progress on the project which was consistent with 7.5.2.1 (c) of the By-Law. This continuance would not affect the approval of the third garage and would allow for agreement between parties and for the neighbors to attend.

There was no second motion. The motion failed.

Mr. Schneider called for a vote on the motion to approve the grant of a Special Permit. Ayes: Mr. Schneider, Mr. Ligris. Opposed: Mr. Goldman. The motion failed

Mr. Giunta said in face of a denial he would prefer a withdrawal. He thought Mr. Goldman's concerns and continuance would hold up a project with issues that have nothing to do with the garage. His client will either build the space or not.

Mr. Voloshin agreed that a continuance would be detrimental to both parties and stall the project. He was not willing to delay the project.

Mr. Friedenberg was unclear why a continuance would delay the project.

Mr. Schneider noted that the motion failed and the matter was decided. He thought it was a bad

result. He indicated that the applicant cannot seek reconsideration but could file a new application. Mr. Schneider would be willing to waive the waiting period.

The meeting adjourned at 7:46 p.m.

Findings:

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The premises is a 17,622 square foot lot of land in the Single Residences B District improved with a single family house and attached garage.
2. The applicant proposes to demolish the existing house and construct a new single family residence in compliance with all dimensional regulations.
3. In the Single Residences B District, 2 (two) car garages are permitted by right.
4. The applicant seeks a Special Permit under Section 6.1.2 for the inclusion of a third garage space within the residence.
5. Some abutters expressed concern about the impact of the third garage space at the initial hearing on February 17, 2022. The matter was continued for the applicant to work with the abutters and specifically the abutter at 20 Ardmore Road to appease any concerns.
6. On March 17, 2022 at the second hearing no abutters delivered any communication to the Board nor appeared; applicant's counsel reported that the abutters had come to terms with the applicant for landscaping and had no objection to the garage.
7. One member of the Board was concerned that the abutter had not appeared at the hearing and moved that the matter be continued. The motion failed for lack of a second. The Board voted on the motion to grant a Special Permit for the third garage. The vote was two in favor and one against. Since a unanimous vote is required to grant the Special Permit, the motion failed.

Decision:

On the basis of the evidence presented at the hearing, following due and open deliberation, upon motion duly made and seconded, the Board denies the Special Permit Application under Section 6.1.2.

SIGNATORY PAGE - 26 ARDMORE ROAD

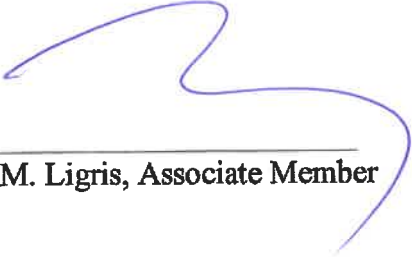

Jon D. Schneider, Chair

SIGNATORY PAGE – 26 ARDMORE ROAD



Howard S. Goldman, Member

SIGNATORY PAGE – 26 ARDMORE ROAD



Nikolaos M. Ligris, Associate Member