



TOWN OF HINGHAM

Board of Appeals

NOTICE OF DECISION FINDING

IN THE MATTER OF:

Applicant/Owner: Michael and Kristin Aylward
7 Burr Street
Hingham, MA 02043

Subject Property: 7 Burr Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 34333, Page 27

Plan Reference: Plans set entitled "The Aylward Residence – Proposed Addition to Garage" prepared by Kearney / Pierce Architects Inc. 222 North Street, Hingham, MA, updated September 12, 2024 (4 Sheets)

SUMMARY OF PROCEEDINGS:

This matter came before the Board of Appeals (the "Board") on the application of Michael and Kristin Aylward (collectively "the Applicants") for a Finding under M.G.L. c. 40A, § 6 and § III-I, C of the Zoning By-Law (the "By-Law") and such other relief as necessary, to demolish half of the existing nonconforming 1-story garage and add a 2-story addition outside of the required 15' setback, maintaining the existing nonconforming 5.8' (southeast point) and 6.1' (southwest point) side yard setback at 7 Burr Street in Residence District A.

The Board heard the application at a duly advertised and noticed public hearing on Tuesday, September 17, 2021 during a meeting held via Zoom as an alternative means of public access pursuant to Chapter 2 of the Acts of 2023 and all other applicable laws temporarily amending certain provisions of the Open Meeting Law. The Board of Appeals panel consisted of its regular members Robyn S. Maguire, Chairman, Paul K. Healey and Jed Ruccio. The Applicants presented the request. At the conclusion of the hearing, the Board granted the requested Finding, subject to the conditions set forth below.

Throughout the hearing, the Board was been mindful of the statements of the Applicants and the comments of the general public, all as made or received at the public hearing.

BACKGROUND AND DISCUSSION:

The subject property consists of 12,450+ SF of land located on the west side of Burr Street. The lot is improved by a single-family dwelling (ca. 1930) and a one-story detached garage (ca. 1965). The existing garage is nonconforming with respect to its (south) side yard setback which is at 5.8' (southeast point) and 6.1' (southwest point) from the property line.

The applicant is requesting relief to raze a portion of the existing one story garage at the 15' setback line, and then construct a two-story addition in its place; attaching to the existing non-conforming portion of the garage. The portion of the garage to remain in the setback will be slightly renovated (new window and siding to match the new construction). The nonconforming portion of the garage will be used for storage. The addition will be used for either an office or exercise room.

The applicant requests a Finding from the Board in order to permit the extension. The protections of M.G.L. c. 40A, § 6, first paragraph, states in part that:

... a zoning ordinance or by-law...shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure ... to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner...

*Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority . . . that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming [*structure or] use to the neighborhood. [*added by the Appeals Court]*

When read together, these portions of the statute provide that changes to nonconforming structures may be permitted if (1) the extensions or changes themselves comply with the by-law and (2) the structures as extended or changed are found to be not substantially more detrimental to the neighborhood than the preexisting nonconforming structure.

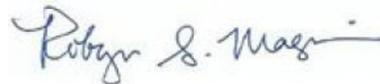
The proposed plan shows that there would be no increase in the extent of the nonconforming structure resulting from the project. The portion of the existing detached garage located within the side yard setback will remain as it presently exists with only alterations / updates to the façade and interior. As noted above, the proposed new construction will conform to the dimensional requirements of the Zoning By-Law.

FINDINGS AND DECISION:

Upon a motion made by Paul K. Healey and seconded by Jed Ruccio, the Board voted unanimously as follows:

- (1) To find that the proposed extension and alteration to the pre-existing nonconforming structure will not be substantially more detrimental than the existing nonconforming structure to the neighborhood; and
- (2) To grant the requested Finding pursuant to M.G.L. c. 40A, § 6 in connection with the proposed expansion of the existing nonconforming garage located at 7 Burr Street in Residence District A, subject to the following conditions:
 - a. Prior to application for a building permit, the Applicant shall submit a plan prepared by a licensed surveyor confirming the nonconforming portion of the garage will remain in its existing form.
 - b. The project shall be constructed in accordance with the approved plans.
 - c. Prior to the issuance of the certificate of occupancy, the Applicants shall submit an as-built plan prepared by a licensed surveyor confirming that the project was constructed in accordance to the approved plans.

For the Board of Appeals,



Robyn Maguire, Chair
September 30, 2024

This Decision shall not become effective until (i) the Town Clerk has certified on a copy of this decision that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, that it has been dismissed or denied, and that (ii): a copy thereof has been duly recorded in the Plymouth County Registry of Deeds and indexed in the grantor index under the name of the owner of record.