



# TOWN OF HINGHAM

## Board of Appeals

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### NOTICE OF DECISION VARIANCE

#### IN THE MATTER OF:

Applicant/ Owner: Callum and Sophia Johnstone  
26 Ship Street  
Hingham, MA 02043

Property: 26 Ship Street, Hingham, MA 02043

Deed Reference: Plymouth County Registry of Deeds, Book 50962, Page 63

#### Plan and Document References:

Original Application Packet and Garage Plan, prepared by EMBR Architects, dated October 7, 2024 (10 sheets);  
Plot Plan prepared by Ross Engineering Company, Inc., dated May 31, 2022 (1 sheet);  
Site Plan for Proposed Garage, prepared by Edward T. Eisenhaure, PE, PLS, dated December 8, 2023;  
Parking Presentation, prepared by EMBR Architects, dated October 9, 2024, (22 sheets);  
Proposed Garage Elevation Height, prepared by EMBR Architects, dated November 20, 2024, (2 sheets);  
Plan of Subdivision of Land on Cottage and Ship Streets, Hingham, MA, prepared by Walter, B. Foster, C.E., dated August 1930, (1 Sheet);  
September 9, 1966 Zoning Board Variance (2 Sheets);  
Plan of Land Cottage and Ship Street, Hingham MA, June 28, 1966, prepared by Lewis W. Perkins & Son Engineers, (1 Sheet).

#### SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of Callum and Sophia Johnstone (the "Applicants") for a Variance from § IV-A of the Zoning By-Law (the "By-Law") and such other relief as necessary to replace an existing single-story garage (located facing Cottage Street) with a new 1.5 story garage, while maintaining and extending into the front (10.3' where 25' is required), rear (4.7' where 15' is required) and side setbacks (1.1' where 15' is required), at 26 Ship Street, located in Residence District A.

The Board heard the application at a duly advertised and noticed public hearing on Tuesday, November 19, 2024, during a meeting held remotely via Zoom as an alternate 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, Chair, Paul K. Healey, and Jed Ruccio. At the conclusion of the hearing, the Board voted unanimously to grant the requested relief.

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

### **BACKGROUND AND DISCUSSION:**

The subject property consists of 7,808 SF of land located on the corner(s) of Ship Street and Cottage Street. The lot is improved by a single-family dwelling (ca. 1831) and a single-story garage (ca. 1954 – building permit issued in July of 1954); both are pre-existing nonconforming structures. In 1930, 26 Ship Street was laid out on plan showing that it comprised of two lots; 26 Ship Street, Lots A and B. On September 9, 1966, a Variance was granted by the Zoning Board of Appeals to modify the lot lines between Lots A and B, amending the lot areas of both lots. On September 19, 1966, the estate for the owner applied for an ANR (Approval Not Required), affirming the new lot's shapes and areas.

There are two front yards for the lot, one on Ship Street (the primary front yard) and one on Cottage Street. Based on the definitions in Section VI of the By-Laws, the lot line to the west side of the garage is the rear yard and the lot line to the south side of the garage is the side yard. Per the Applicant's site plan, the existing garage is located 10.3 feet from Cottage Street (where 25' is required), 4.1' from the rear (where 15' is required) and 1.1' from the side (where 15' is required). The lot is oddly shaped and undersized (7,505 SF where 20,000 SF is required) and slopes steeply from the front of Ship Street toward the rear.

The Applicants requested a Variance to allow them to replace their existing nonconforming garage with a new, 1.5 story garage that would provide them off-street parking. The reconstructed garage would rebuild the southwest corner of the garage with a door entrance to the garage but remove the northwest portion to provide one off-street parking space. The new structure would be expanded to the east toward the house to create a garage more suitable for parking larger vehicles than the existing garage. The originally proposed-half story included two dormers and would be accessed from a door from the existing patio. In its entirety, the proposed structure would add a driveway parking space, an enlarged garaged parking spot, and usable area above the garage that would be directly accessed from the existing patio.

The Applicants, through their Architect, provided images of the proposed design, as well as a parking analysis of the neighborhood. There is no on-street parking designated on Ship Street or Cottage Street, and the current configuration and location of the garage currently requires that any vehicle pulled into the driveway is extended onto the sidewalk. They are frequently ticketed and provided a letter of support for the Variance from the Hingham Police Department.

During the hearing the Board discussed both the unique topography and shape of the lot. They agreed that the fact the owners of 26 Ship cannot park safely on their property did create a hardship. That said, the Board agreed that the need for additional storage above the garage did not meet the Variance criteria. In response to the Board's comments, the applicant presented an amended garage plan proposing instead a 1-story garage, measuring 17.5' in height, removing the dormers and exterior access that was more in keeping with the existing garage.

## **FINDINGS**

Based on the information submitted and presented during the review, and the deliberations and discussions of the Board during the meetings, the Board made the following findings in accordance with the approval criteria under § I-D, 2.c of the By-Law:

1. **Circumstances related to soil, shape, or topography especially affect the land or structures in question:** Unusual shape and topography conditions distinguish the property from most others in Residence District A. The lot is oddly shaped at the rear, and the lot's elevation drops significantly from the front of Ship Street to the rear of the lot. These circumstances especially affect the subject property and not generally the zoning district.
2. **The literal enforcement of the By-Laws would involve substantial hardship financial or otherwise.** Literal enforcement of the By-Law would continue to prevent the applicant from being able to safely and legally park their vehicles off the street. A grant of a dimensional variance in this instance will allow for the reasonable improvement of the proposed garage and provide safe, legal on-site parking.
3. **A Variance may be granted without substantial detriment to the public good.** There will be no adverse effects on the neighborhood and there will be no harm to the public good resulting from the proposed garage as allowing the new garage will eliminate the obstruction of a car parked over the public sidewalk and will improve safety for the homeowners and the neighborhood.
4. **A Variance may be granted without nullifying or substantially derogating from the intent or purposes of the By-Law.** The requested relief would maintain, if not improve, the existing nonconforming setbacks. Granting a dimensional variance in this instance will allow for a reasonable use of the property that is consistent with the residential uses in the neighborhood and Residence District A.

**DECISION**

Upon a motion made by Paul K. Healey and seconded by Jed Ruccio, the Board voted unanimously to grant a Variance from § IV-A of the By-Law, and such other relief as necessary, to reconstruct the garage at 26 Ship Street in Residence District A, improving, but extending the nonconforming front setback (to 10.7' where 10.3' exists presently), eliminating a portion of the structure from within the rear setback (presently located at 4.0') and maintaining and extending the structure along the side yard setback, subject to the following conditions:

- a. Prior to application for a building permit, the Applicant shall submit a plan confirming that the height of the structure shall not exceed 17.5 feet.
- b. The proposed work shall be completed in a manner consistent with the approved plans and the representations made at the hearing before the Board.
- c. Prior to the issuance of the certificate of occupancy, the Applicant 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,



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Robyn Maguire, Chair  
December 2, 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.