

12, 07, 2015
I hereby certify that
twenty days have elapsed
since this decision was
filed in this office
and no appeal from the
decision has been filed.

Paul Hume
Town Clerk

TOWN OF READING

ZONING BOARD OF APPEALS

**DECISION ON THE PETITION OF ST. AGNES CHURCH (ARCHDIOCESE)
FOR THE PROPERTY LOCATED AT 172-186 WOBURN STREET,
READING, MASSACHUSETTS**

RECEIVED
TOWN CLERK
READING, MASS.

NOV 16 P 1:32

**November 5, 2015
Case No. 15-09**

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, November 5, 2013 at 7:00 p.m. in the Selectman's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts to hear the petition of St. Agnes Church (Archdiocese) (the "Petitioner") who seeks a Special Permit and an Appeal of the Building Inspector under Sections 9.0/7.0 of the zoning bylaws in order to allow a reduction in off-street parking and use of off-site parking on the property located at 172-186 Woburn Street in Reading, Massachusetts (the "Property").

The Property is located in an S-15 district and is comprised of over three acres of land, on which are situated a church, a rectory, a parish center and a school building. The Property contains two distinct topographic levels. The upper level of land (Lot 1-A) contains the church, rectory, parish center and a parking area. The lower area (Lot 2-A) contains a brick building that was built as a school and a parking area. There are two exterior stairways between the upper and lower levels of the property.

Attorney Brad Latham made the presentation on behalf of the Petitioner. Section 9.1.1.7 of the zoning bylaws requires that a church has one parking space for every 300 square feet of gross church building area. In 2013, the Building Inspector and Town Engineer calculated that the Property needed a total of 203 parking spaces to meet the current on-site parking requirements for the church, the parish center, rectory and the lower building as shown on the plan, dated April 22, 2013, prepared by the Town of Reading and submitted as Exhibit A with the Petitioner's application. The Property only has 110 existing spaces, a deficit of 93 parking spaces. Attorney Latham explained that in 2013, the Petitioner intended to divide the lower land area and building and sell that portion to the Town of Reading resulting in fewer on-site parking spaces dedicated for church use. In July of 2013, the Board granted a Special Permit to allow the parking for the Petitioner's use to be the existing 50 spaces on Lot 1-A and 45 spaces on Lot 2-A on a time-share basis, for a total of 95 parking spaces for the Petitioner's use. Attorney Latham explained that the transaction with the Town of Reading for the sale of Lot 2-A was not consummated.

Attorney Latham further explained that the Petitioner's current intention is to sell Lot 2-A for use as 20 residential units within the existing building. He explained that the use is categorized under the zoning bylaws section 9.1.1.7 as apartment dwelling and requires 1.5 parking spaces for each dwelling unit. As a result, the parking requirement is 30 spaces. Before selling Lot 2-A, the Petitioner seeks a Special Permit from the Board as to the number of on-site parking spaces for Lot 1-A. According to section 6 of the M.G.L. Chapter 40A, "Pre-existing non-conforming . . . uses may be altered, provided that no such . . . alteration shall be permitted unless there is a finding by the permit granting authority designated by ordinance or bylaw that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood."

According to the Medford Engineering & Survey plan, dated February 4, 2015 as revised to September 2, 2015 (the "Plan") submitted by the Petitioner, there will be a total of 72 spaces on Lot 1-A and 67 spaces on Lot 2-A. Attorney Latham explained that the 2013 plan approved by the Board only provided for 50 spaces on Lot 1-A. He stated that the greater number of parking spaces is achieved by

building a two-car garage and arranging for an on-site parking layout that utilizes 16 tandem parking spaces. He stated that 121 parking spaces are required by the zoning bylaws for the use of Lot 1-A, the church, parish center and rectory. Attorney Latham stated that although parking requirement for the proposed conversion of the building on Lot 2-A to apartment use is 30 spaces, he requests that five additional spaces are proposed for apartment use above the zoning requirement for a total of 35 parking spaces. Attorney Latham requests that up to 32 spaces on Lot 2-A be approved for use by Lot 1-A to count towards the parking requirement of 121 spaces.

The meeting was opened for public comment and several citizens who are residents of the neighborhood made arguments both for and against the Petitioner's application. Following the presentation, public comment and Board discussion, the Board granted the Petitioner's request for a Special Permit and made the following findings:

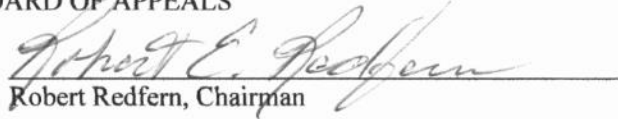
1. The sixteen tandem parking spaces as are shown on Lot 1-A of the Medford Engineering & Survey plan, dated February 4, 2015 as revised to September 2, 2015, are acceptable and can be counted as parking spaces for zoning purposes.
2. Up to 32 parking spaces on Lot 2-A may be used for the benefit of Lot 1-A and may count towards the parking requirement for the Petitioner's parking requirement for Lot 1-A. Parking spaces on Lot 2-A dedicated for the benefit of Lot 1-A shall be granted in perpetuity and shall be for the exclusive use of Lot 1-A. The form of the easement grant shall be subject to the reasonable approval of Town Counsel.
3. A deficit of 25 parking spaces¹ from 121 spaces required by the current zoning bylaws as to the off-street parking requirement for the Petitioner's use on Lot 1-A as shown on the Medford Engineering & Survey plan, dated February 4, 2015 as revised to September 2, 2015, is not substantially more detrimental than the existing nonconforming use to the neighborhood and is hereby permitted.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to M.G.L. c. 40A, § 17, within twenty (20) days after the date of filing this Decision with the Town Clerk. Notice of appeal with a copy of the complaint must also be filed with the Town clerk within twenty (20) days as provided in § 17.

This Special Permit shall not take effect until a copy of this Decision, bearing certification of the Town Clerk that twenty (20) days have elapsed after the Decision was filed in the Office of the Town clerk and no appeal has been filed, or if an appeal has been filed within such time, that it has been dismissed or denied, is recorded in the Middlesex South District Registry of Deeds and indexed in the Grantor's Index under the name of the owner of record, or is recorded and noted on the Owner's Certificate of Title. The fee for recording or registering shall be paid by the Owner or Petitioner. Any person exercising rights under a duly appealed Special Permit does so at the risk that a court may reverse the permit and that any construction performed under the permit may be ordered to be undone.

¹Although 104 spaces are documented on the Plan, 72 spaces on lot 1-A and 32 spaces on lot 2-A, making the deficit 17 spaces, the higher deficit number of 25 is requested recognizing that some of the parking shown on the Plan may be changed or eliminated for various reasons during subsequent governmental reviews.

ON BEHALF OF THE READING ZONING BOARD OF APPEALS



Robert Redfern, Chairman

Zoning Board Members voting on Case # 15-09

Damase Caouette, Robert Redfern, John Jarema, David Traniello, Kathleen Hackett

12, 07, 2015

herby certify that
twenty days have elapsed
since this decision was
filed in this office
and no appeal from the
decision has been filed.


Town Clerk