

06/16/2015
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twenty days have elapsed
since this decision was
filed in this office
and no appeal from the
decision has been filed.

Randy Yeme
Town Clerk

TOWN OF READING

ZONING BOARD OF APPEALS

DECISION ON THE PETITION OF DAVID CHUHA
FOR THE PROPERTY LOCATED AT
50 LOTHROP ROAD, READING, MASSACHUSETTS

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TOWN CLERK
READING, MASS.

MAY 26 P 12:09

May 14, 2015
Case No. 15-05

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, May 14, 2015 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 David Chuha (The "Petitioner"). The Petitioner sought a Variance under Section(s) 6.2.1, 6.2.2 and 6.3 of the zoning bylaws in order to construct a single family dwelling on a non-conforming lot on the property located at 50 Lothrop Road in Reading, Massachusetts (the "Property"). The requested Variance was previously granted via Case No. 12-11 but has lapsed.

The Property is located in an S-20 Zoning District. The parcel is a non-conforming lot in that the frontage of the lot is 40.58 feet and the S-20 Zoning District's required frontage is 120 feet. The Petitioner purchased the property from the Town of Reading in order to construct a single family dwelling and is requesting a Variance in order to construct same on the Property. The proposed dwelling is depicted in the Certified Proposed Site Plan ("the Proposed Site Plan") prepared by PJF & Associates, 4 Highland Avenue, Wakefield, MA and stamped by Paul J. Finocchio, Professional Land Surveyor, dated April 22, 2015. Architectural Plans, pages A-1 through A-7, prepared by Phoenix Collaborative Architects, were also reviewed by the Board.

The Board of Appeals may grant a variance pursuant to the authority contained in M.G.L. Chapter 40A, Section 10, provided the following four criteria are met:

1. There are circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located:
The Petitioner stated in his application that Map 9 lot 3 has existed since July 1958 as a separate parcel of land. It has frontage on Lothrop Road of just over 40 feet, adequate in size for a driveway, but inadequate for frontage in the S-20 Zoning District. There is no adjacent land available to add the frontage of lot 3, without making the lots from which that land would be taken into non-conforming lots. The 2 abutting lots have only 80 feet of frontage each. Both abutting lots on Lothrop Road are developed with single family homes.
2. A literal enforcement of the provisions of the ordinances or bylaw would involve substantial hardship, financial or otherwise, to the Petitioner:
The Petitioner stated in his application that there is no possibility of acquiring the necessary land to give this lot the frontage on Lothrop Road required to conform to the Reading Zoning Bylaws.
3. Desirable relief may be granted without substantial detriment to the public good:
The Petitioner stated in his application that the granting of a variance for this lot will not create a precedent. The parcel will be used for one single building lot of 34,000 square feet, substantially larger than the minimum in the S20 zoning district, and larger than the lots in the Lothrop Road neighborhood and the nearby Emerald Drive neighborhood. The other properties in these neighborhoods are already developed.
4. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw:

The Petitioner stated in his application that the Zoning Bylaws anticipate that lots in the S20 zoning district will have a minimum lot size of 20,000 square feet, and a minimum lot width of 120 feet. This lot was created in July 1958, and has well more than the current minimum lot size, but has only 40 feet of frontage on Lothrop Road. It is the only lot in the neighborhood with such a narrow frontage, although most of the lots fall well short of the current minimum of 120 feet. It appears that when they were developed the minimum lot width was 80 feet. The lot sizes in the neighborhood appear to be at least 15,000 square feet although many are 20,000 square feet or slightly over. The lot in question has existed for over 50 years and allowing a single family residence on the site will be completely consistent with the neighborhood.

A motion was made and seconded and the Board voted 4-0-0 to approve the petition for a variance under section 6.2.1, 6.2.2 and 6.3 of the zoning bylaws in order to construct a single family dwelling on a non-conforming lot on the property located at 50 Lothrop Road in Reading, Massachusetts


The Variance is conditioned upon the following:

1. The Petitioner shall submit to the Building Inspector a Certified Plot Plan of the proposed construction and proposed foundation plans, prior to the issuance of a foundation permit for the work.
2. The Petitioner's final construction plans for the new structure shall be submitted to the Building Inspector, along with the as-built foundation plan(s), prior to the issuance of a Building Permit.
3. As-built plans showing the completed construction of the new structure being submitted to the Building Inspector immediately after the work is completed and prior to the issuance of an Occupancy Permit.

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 Variance 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.

ON BEHALF OF THE READING ZONING BOARD OF APPEALS


Damase Caouette, Acting Chairman

Zoning Board Members voting on Case # 15-05
Damase Caouette, John Jarema, Kathleen Hackett, Eric Hagstrom

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John Jarema
Town Clerk