

**TOWN OF READING**  
**ZONING BOARD OF APPEALS**  
**DECISION ON THE PETITION OF MARK & KRISTIN AGAMI**  
**FOR THE PROPERTY LOCATED AT**  
**23 LEE STREET, READING, MASSACHUSETTS**

**June 6, 2013**  
**Case No. 13-11**

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, June 6, 2013, at 7:00 p.m. in the Selectmen's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts, to hear the petition of Mark and Kristin Agami (the "Petitioners"). The Petitioners sought a Variance and a Special Permit under Sections 5.0 and 6.3.6 of the Zoning By-Laws in order to remove an 8 ft. by 11.75 ft. structure and to construct an 11.8 ft. by 11.75 ft. two-story addition on the property located at 23 Lee Street in Reading, Massachusetts (the "Property").

The Property is located in an S-15 Zoning District and is a legal, non-conforming lot due to the fact that the lot has less than the required lot area (4,945 sq. ft. vs. 15,000 sq. ft. required), less than the required side yard setbacks (14.3 ft. and 11.1 ft. vs. the required 15 ft. on each side) and less than the required rear yard setback (16.6 ft. vs. the required 20 ft.). The Petitioner proposes to remove an 8 ft. by 11.75 ft. structure and to construct an 11.8 ft. by 11.75 ft. two-story addition. The new dwelling is depicted on the Certified Plot Plan ("Plot Plan") prepared by John D. Sullivan III, P.E., 22 Mount Vernon Road, Boxford, MA 01921 and stamped by John D. Sullivan III, P.E., dated October 3, 2012.

Section 6.3.6 of the Reading Zoning By-Laws states: "In the event that the Building Inspector determines . . . that the nonconforming nature of such structure would be increased by the proposed extension, alteration or change, the Board of Appeals may, by special permit, allow such extension, alteration or change where it determines that the proposed extension, alteration or change will not be substantially more detrimental than the existing nonconforming structure to the neighborhood." The Petitioner explained that the 8 ft. by 11.75 ft. two-story addition would reduce the rear yard setback from 16.6 ft. to 12.7 ft. The addition does not impact the side yard setbacks. Following discussion and comment by Board members and opening the hearing to public discussion, the Petitioner withdrew the application for a Variance under section 5.0 of the Zoning By-Laws and decided to proceed under section 6.3.6 for a Special Permit for the addition. The Board concluded that the proposed dwelling would not be substantially more detrimental to the neighborhood than the former dwelling.

Accordingly, a motion was made and seconded, and the Board voted unanimously (5-0-0) to grant the Petitioner's request for a Special Permit under Section 6.3.6 of the Zoning By-Laws to remove an 8 ft. by 11.75 ft. structure and to construct an 11.8 ft. by 11.75 ft. two-story addition on the home located at 23 Lee Street in Reading, Massachusetts, as shown on the referenced Plot Plan of Land.

The Special Permit 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 plans, prior to the issuance of a Building Permit.

3. As-built plans showing the completed construction of the new structure shall be submitted to the Building Inspector immediately after the work is completed and prior to the issuance of an Occupancy Permit.

Any person aggrieved by this 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.

ON BEHALF OF THE READING ZONING BOARD OF APPEALS



Damase Z. Caouette, Chairman

Zoning Board Members voting on Case # 13-11  
Damase Caouette, Robert Redfern, John Jarema, David Traniello, Kathleen Hackett