

Town of Reading Zoning Board of Appeals

The Decision of the Board of Appeals on the Petition of

**Paul and Danielle Currier
On the Property Located at
38 Springvale Road
Reading, Massachusetts
Case No. 13-10**

May 16, 2013

The Zoning Board of Appeals (the Board) opened a public hearing in the Selectmen's Meeting Room at the Town Hall, 16 Lowell Street, Reading, Massachusetts at 7:00 PM on Thursday, May 16, 2013, on the petition of Paul and Danielle Currier, 38 Springvale Road, Reading, Massachusetts 01867, who sought a Special Permit and an Appeal from the Decision of the Building Inspector under Section 6.3.6 and 7.4 of the Reading Zoning By-laws (the By-laws) in order to construct a second level upon a non-conforming structure on the property located at 38 Springvale Road, Reading, Massachusetts.

The Petitioner detailed the proposal and the plans to construct the new second level addition to the single family dwelling. The Board inquired about the condition of the existing dwelling, the size and location of the proposed new second level, and the benefit to the Petitioner. The Petitioner provided plot plans and architectural drawings of the proposed second level addition, dwelling and elevation.

It was noted at the meeting that the Town Zoning Officer, C. Glen Redmond, had prepared a memo dated April 17, 2013, outlining the denial of Petitioner's Application for a Building Permit dated April 17, 2013, as not in compliance with the required 15 foot side yard setback and requiring an application for Special Permit.

Section 6.3.6 of the By-laws provides that a Special Permit is required in the event that the Building Inspector determines, after consideration of Section 6.3.5 (alteration of a non-conforming structure) that the nonconforming nature of such structure (in this case, proposed addition of a second level to a dwelling in a Residential S-15 District) would be increased by the proposed extension, alteration or change, the Board may, by Special Permit, allow such extension, alteration or change where it determines that the proposal will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

After questioning by the Board, and review of the materials submitted, the Board confirmed that the additional non-conformity was a two foot by four and seven-tenths foot (2' X 4.7') overhang of a second floor into the required 15 foot side yard setback, and that the new

construction would be consistent with and complementary to the existing dwellings in the neighborhood.

A motion was made and seconded and the Board voted 5-0-0 in the affirmative to grant a Special Permit to Paul and Danielle Currier under Section 6.3.6 of the By-laws in order to construct a second level upon a non-conforming structure on the property located at 38 Springvale Road, Reading, Massachusetts, as reflected in and consistent with: (1) the certified plot plans dated March 26, 2013, and revised April 8, 2013 prepared by Reid Land Surveyors of 365 Chatham Street, Lynn, Massachusetts and stamped by Ralph William Reid, Professional Land Surveyor.

Any person aggrieved by this decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws Chapter 40A, Section 17, within twenty (20) days after the date of filing of this Decision with the Town Clerk. Notice of an appeal with a copy of the complaint must also be filed with the Town Clerk within twenty (20) days as provided in Section 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, 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.

The 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

Board members voting on Case No. 13-10
Damase Caouette, Robert Redfern, John Jarema, Kathleen Hackett and David Traniello.