

**TOWN OF READING, MASSACHUSETTS
DECISION OF THE ZONING BOARD OF APPEALS ON THE PETITION OF
THE TOWN OF READING FOR THE PROPERTY LOCATED AT
96 & 100 VAN NORDEN ROAD, READING, MASSACHUSETTS**

October 18, 2012

Case No. 12-14

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, October 18, 2012, in the Selectmen's Meeting room at Town Hall, 16 Lowell Street in Reading, Massachusetts, to hear the Petition of Pellegrino Realty Trust (the "Petitioner") who sought a Variance under Section 5.1.2 (Table of Dimensional Controls) of the Zoning By-Laws in order to create two (2) building lots for single-family dwellings in an S-20 zoning district, on the property located at 96 & 100 Van Norden Road in Reading, Massachusetts (the "Property"). The frontage on the proposed building lots will be less than the required 120 feet required in the zoning district.

The property consists of two lots (lots 7 & 8) as originally laid out and described in the property deed conveyed to the Pellegrino Realty Trust by Mary G. Pellegrino. The Property (made up of the two lots) has 197.95 feet of frontage on Van Norden Road with two separate dwellings located on the Property. The Petitioner is requesting a Variance to recreate the two original lots (lots 7 & 8) as they were laid out. The proposed lots to be recreated are shown on a Certified Plot Plan prepared by Eastern Land Survey Associates, Inc., 104 Lowell Street, Peabody, MA 01960, prepared and stamped by Christopher R. Mello, PLS, dated October 7, 2011, revised Aug. 23, 2012.

The Board of Appeals may grant a Variance if it finds that the four following conditions have been met: (1) particular circumstances existing relating to soil conditions, shape or topography of the land or structures that are subject to the petition, but do not generally affect the zoning district in which it is located; (2) a literal enforcement of the zoning ordinance would involve a substantial hardship, financial or otherwise; (3) the desirable relief can be granted without substantial detriment to the public good; and (4) that the Variance does not nullify or substantially derogate from the intent or purpose of the zoning ordinance.

This Variance shall not take effect until a copy of this Decision, bearing certification of the Town Clerk and no appeal has been filed, or if an appeal has been filed within such time, that is indexed in the Grantor's index under the name of the owner of record, or is recorded and noted

has been dismissed or denied, is recorded in the Middlesex South District Registry of Deeds and Town Clerk that twenty (20) days have elapsed after the Decision was filed in the Office of 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.

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. Plot Plan.

(100.00 feet) Van Norden Road, Reading, MA as depicted on the previously referenced Certified

establiish the historical lots (lots 7 & 8) and lot frontage for No. 96 (97.95 feet) and No. 100 Petitioner's request for a Variance from Section 5.12 of the Zoning By-Laws in order to re- Accordingly, a motion was made and seconded and the Board voted (5-0-0) to grant the

purpose of the zoning by-law. zoning by-law and relief could be granted without nullifying or derogating from the intent or (4) If the requested relief is allowed it will not be inconsistent with the stated "Purpose" of the lots in the neighborhood have frontage that would be comparable to each of the proposed lots. (3) The relief being requested will not create additional density to the neighborhood. Most of the thereon. Two dwelling units on one lot will not conform to the current Reading Zoning By-Laws. experience a hardship and difficulty in trying to market a property which has two dwelling units subdivision layout filed with the Registry of Deeds over 100 years ago. (2) The Petitioner would two dwellings on a single lot is unique. The original purchase of the two lots was made from a The Board reviewed the four criteria necessary for approval of a variance request. (1) Having

the hearing was subsequently closed by the Chair.

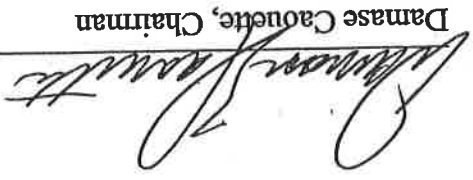
Following the Petitioner's presentation, the hearing was opened to public comment and discussion by the Board. No public comments were received and the public comment portion of

Petitioner's request for a variance is warranted.

Latham then gave explanations to the four criteria required to be met for a variance and why the Latham then summarized the history of the lots, the current non-conformity and the relief requested. Atty. presented to the Board a Memorandum in support of the Application for Relief in which he well in excess of the minimum required lot size of 20,000 square feet. Atty. Latham then frontage for each lot will be the only consideration as there will be sufficient lot area for each lot, to process taxes for the Property onto one tax bill. The Petitioner's attorney explained that lot lots into one parcel. Apparently, the Town Assessor's Office had combined the two lots in order the Petitioner's family has owned the subject parcel for 55 years and has never combined the two In presenting their case before the Board, Mr. Brad Latham, the Petitioner's attorney stated that

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, Chairman

Zoning Board Members voting on Case # 12-14

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