

TOWN OF READING

**ZONING BOARD OF APPEALS
DECISION ON THE PETITION OF NORTHEAST YOUTH BALLET, INC.
FOR THE PROPERTY LOCATED AT
32 LOWELL STREET, READING, MASSACHSUEETS**

**March 15, 2012
Case No. 12-01**

The Zoning Board of Appeals (the “Board”) held a public hearing on Thursday, March 1, 2012, which hearing was continued to Thursday March 15, 2012, in the Selectmen’s Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts, on the petition of Northeast Youth Ballet, Inc. (the “Petitioner”), who sought (1) an appeal of the building inspector’s determination under Section 6.1 that use of the structure located at 32 Lowell Street in Reading, Massachusetts (the “Property”) as a ballet school required on-site parking, or alternatively, (2) a variance under Section 6.1 of the Zoning By-Laws in order to use the structure located on the Property as a ballet school without the requisite on-site parking.

Attorney Bradley Latham appeared on behalf of the Petitioner. Following the presentation, discussion and comment by Board members and the opening of the hearing to public discussion, a motion was made, and seconded, to overturn the building inspector’s determination that the Property required on-site parking. The Board voted (2-3-0) to deny the Petitioner’s requested appeal.

Following the denial of the appeal, the Petitioner requested a variance from the on-site parking requirement. The Board may grant a variance from the By-laws if it determines that each of the following conditions have been met: (1) particular circumstances exist relating to the soil conditions, shape or topography of the land or structures that are the subject of the petition, but do not generally affect the zoning district in which it is located; (2) literal enforcement of the zoning ordinance would involve a substantial hardship, financial or otherwise; (3) desirable relief can be granted without substantial detriment to the public good; and (4) the requested variance does not nullify or substantially derogate from the intent or purpose of the zoning ordinance.

Attorney Latham addressed the criteria for the granting of a variance on behalf of the Petitioner. Additionally, the Board received a March 6, 2012 letter from the Massachusetts Historical Commission (“Commission”) stating that the Petitioner’s proposed parking plan to add four parking spaces on the Property was agreeable to the Commission. The Board also received a March 7, 2012 memo from the Town Manager, as well as a March 15, 2012 email from the CPDC.

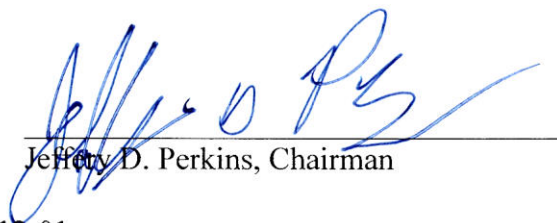
Following the presentation, discussion and comment by Board members and the opening of the hearing to public discussion, the Board concluded that the Petitioner satisfied the criteria for granting a variance.

Accordingly, a motion was made and seconded, and the Board voted (4-1-0) to grant the Petitioner's request for a Variance from Section 6.1 the Zoning By-Laws to permit the Petitioner to provide four parking spaces on the Property as shown on the submitted Plot Plan of Land by P.J.F. and Associates, 11 Gleason Street, Medford, MA, dated March 5, 2012. The variance granted relates only to the use of the Property as a ballet school. If there is a subsequent change in the primary use of the Property, the new use shall be subject to municipal review.

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 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



Jeffrey D. Perkins, Chairman

Zoning Board Members voting on Case # 12-01
Jeffrey D. Perkins, Robert E. Redfern, Damase Caouette, John Jarema, and Kristin Cataldo