



Town of Reading

16 Lowell Street, Reading, MA 01867

Zoning Board of Appeals

Ph: 781-942-6654 or Fax: 781-942-9071

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Decision of Finding on the Petition of John Hammond

On the Property Located at
14 Kingston, Reading, Massachusetts

Case No. 21-05
June 1, 2021

The Zoning Board of Appeals (the "Board") opened a public hearing via Zoom virtual meeting, in lieu of meeting in the Select Board's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts to hear the petition of **John Hammond** (The "Petitioner"). The Petitioner sought a Special Permit under Sections 4.5.2, 7.0 and 7.3.2 and a Variance under Sections 6.3 and 7.4 to construct a one-story addition along an existing non-conforming side-yard setback, that would result in lot coverage that is over the 25% maximum allowed, on the property located at **14 Kingston Street** in Reading, Massachusetts (the "Property").

The Property is located in the **S-15** residential district of Reading. The existing lot is considered legal non-conforming due to the fact that it does not meet the current area and frontage requirements for the S-15 zoning district. The existing dwelling (an "Old" style dwelling, circa 1889) is deemed a legal non-conforming structure due to having a less than required side-yard setback of 8.7', where 15' is required. It was stated that the Petitioner is seeking a Special Permit for a one-story addition along this non-conforming side-yard setback at the north of the property. The existing dwelling with proposed addition is depicted on a Certified Plot Plan ("the Plot Plan") prepared and certified by John D. Sullivan III Professional Surveyor No. 41586, P.O. Box 2004, Woburn MA 01888, dated March 8, 2021. Architectural layouts and elevations for the proposed addition, consisting of sheets 1 through 2, dated January 2021, prepared by Ken Diranian, Townsend, MA 01469, were also submitted with the Petitioner's application.

Based on the building permit application for the proposed one-story addition it was found that the site maintains a zoning violation of exceeded lot coverage. It was found that the existing deck was issued a building permit in the year of 1989, however, the deck was built larger than the permit allowed for. This in turn resulted in the sites lot coverage exceeding the 25% maximum allowed in the S-15 zoning district. The Petitioner requested that a variance be granted for the exceeded lot coverage due to hardship or a finding be granted that the structure has existed over ten-years in time and thus no longer needs zoning relief. Under oath, the Petitioner stated that the deck has existed for well over ten-years and a large area of the deck is considered 'non-usable' due to access needs and grade changes. This 'non-usable' area serves as a walkway and stairs. The Petitioner opined that it is not more detrimental to the neighborhood as it has existed without complaint for 32-years. The Petitioner continued that the current proposal for a one-story addition does not increase the existing lot coverage as the one-story addition is being constructed on what is currently deck space.

After further discussion it was found that the lot coverage indicated on the abovementioned Plot Plan was labeled incorrectly. The true lot coverage of the site is 2,214sf, or 33.8%, and not 1,962sf (29.95). The Board requested that the Plot Plan be resubmitted with the correct calculations.

The Board discussed the Special Permit proposal and deemed that the one-story addition would not add to the existing non-conformity, is in keeping with the character of the existing house, and does not take away from the character of the neighborhood.

Section 7.3.2 of the Reading Zoning By-Laws states, in relevant part, "For those alterations not eligible for a building permit pursuant to Section 7.3, the Zoning Board of Appeals may grant a Special Permit to reconstruct, extend, alter, or structurally change a nonconforming building or structure upon a finding that such reconstruction, extension, alteration or structural change shall not be substantially more detrimental to the neighborhood than the existing nonconforming building or structure". Following discussion with the Petitioner and comment among the Board members, the meeting was opened to public comment and, with no input from the public forthcoming, subsequently closed.

A motion was made and seconded by Board Members that the existing deck has existed for over ten-years in time and no longer requires zoning relief for the sites existing lot coverage. **The Board voted in the affirmative (5-0-0) to grant a Finding that zoning relief was not required for lot coverage at the Property located at 14 Kingston Street, Reading, Massachusetts due to the deck structure existing for over a ten-year time period.**

A second motion was made and seconded by Board Members that the proposed one-story addition would not be substantially more detrimental to the neighborhood than the existing dwelling and, would meet the requirements for Special Permit under Section 7.3.2 of the Reading Bylaws. **The Board voted in the affirmative (5-0-0) to grant a Special Permit in order to construct a one-story addition to the dwelling at 14 Kingston Street, as shown on the previously noted Certified Plot Plan and Architectural plans submitted, with the following conditions attached:**

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 plan(s), prior to the issuance of a Building Permit.
3. The Petitioner shall submit as-built plans to the Building Inspector showing the completed construction immediately after the work is completed and prior to the issuance of an Occupancy Permit.
4. The Petitioner shall submit a revised Plot Plan with correct lot coverage calculations.

Any person aggrieved by the decisions 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


Robert Redfern, Chair

Board members sitting and voting on Case No. 21-05

Robert Redfern, Nick Pernice, Jamie Maughan, Hillary Mateev, Alex Normandin

