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TOWN OF READING
ZONING BOARD OF APPEALS
DECISION ON THE PETITION OF
John Burke
FOR THE PROPERTY LOCATED AT
64 Village Street, Reading, MA 01867

June 17, 2021
Case No. 21-07

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday June 17, 2021 at 7:00 p.m. in the Select Board's Meeting Room at Town Hall, 16 Lowell Street, Reading, Massachusetts to hear the petition of John Burke (the "Petitioner"). The Petitioner sought a Special Permit under Sections 7.0, 7.3, and 7.3.2 of the Zoning By-Laws to construct a 14.5-foot by 11.5-foot deck that has a non-conforming side-yard setback of 12.2-feet, to an existing non-conforming dwelling on a non-conforming lot for the property located at 64 Village Street in Reading MA (the "Property").

The property is located in the Single-Family S-15 residential zoning district of Reading. The existing lot is considered legal non-conforming, due to the fact that it does not meet the current lot area (15,000square-feet) or frontage (100-feet) requirements required in the S-15 Zoning District. The lot maintains ~8,800square-feet of area and ~82.50 linear feet of frontage. The existing dwelling, an Old-style house, circa 1875, is deemed a legal non-conforming structure due to the existing less than required minimum side-yard setback to the property line. The current side-yard setback requirements in the S-15 Zoning District is 15-feet; the dwelling has an existing side-yard setback of 11.9-feet. It was stated that the Petitioner is seeking a Special Permit for a deck at the rear (east) side of the existing dwelling that would be built with a non-conforming side-yard setback of 12.2-feet. The existing dwelling with proposed addition is depicted on a Certified Plot Plan ("the Plot Plan") prepared and certified by Robert E. Grover, Professional Surveyor No. 30566, 204 Beach Avenue, Melrose, MA 02148, dated March 28, 2021. Architectural layouts and elevations for the proposed deck, consisting of sheets 1 through 7, dated March 4, 2021, prepared by Kneeland Construction Corporation, 407R Mystic Avenue, Suite 34B, Medford, MA 02145, were also submitted with the Petitioner's application.

The Board found that the proposed deck is not more detrimental to the neighborhood due to its proposed side-yard setback being more than the existing non-conformality. The structure meets all other required setbacks and its placement is constrained by lot size and existing dwelling location. It raised lot coverage of the site to 21%, which conforms to the maximum 25% lot coverage allowed.

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 proposed deck 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 By-Laws for a proposed addition to an existing dwelling. The Board voted 5-0-0 in the affirmative to grant a Special Permit in order to construct a two-story addition to the dwelling at 64 Village 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.

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, Chairman

Board Members voting on Case #21-07:

Robert Redfern – Chair (yes), Nick Pernice (yes), Hillary Mateev (yes), Jamie Maughan (yes), Cynde Hartman (yes)