



## 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 on the Petition of

Rob and Lisa Gibbs

### On the Property Located at

9 Priscilla Road, Reading, Massachusetts

### Case No. 21-11

October 13, 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 **Mr. and Mrs. Rob and Lisa Gibbs** (The "Petitioner") on Thursday July 29, 2021. The application was opened, discussed and continued to Tuesday September 14, 2021 where the application was further discussed. The hearing was then continued again to Thursday October 14, 2021. The Petitioner sought a Special Permit under Sections 5.3.2, 5.4.7, 7.0 and 7.3 of the Zoning Bylaws to construct a one- to two-story addition along an existing non-conforming side-yard setback, that also included an Accessory Apartment, on the property located at **9 Priscilla Road** in Reading, Massachusetts (the "Property"). Based on the discussion on September 14, 2021, and prior to the October 14, 2021 hearing, the Applicant submitted written request on Friday October 8, 2021 to **withdraw the application without prejudice**.

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 lot area requirements or frontage requirements of the S-15 zoning district it is in. The property maintains ~8,700 square-feet of area where 15,000 square-feet is required and 80 linear feet of frontage along Priscilla Road where 100 linear feet is required. The existing dwelling (a "colonial" style house, circa 1930) was found to be a legal non-conforming structure due to its existing side-yard setback of 6.7' being less than the required 15'.

The Petitioner was present at the meeting, along with the project architect Ms. Nancy Twomey. It was stated that the Petitioner is seeking a Special Permit for a one- to two-story addition at the eastern side of the property. The proposal would extend the existing non-conforming side-yard setback by approximately 31' from north to south. The proposed non-conforming side-yard setback of the structure varied in range from 6.87' to 8.59' due to the shape/direction of the eastern lot line. The northern portion of the proposed addition would include a second-story. The entirety of the first-floor of the proposed addition would be used as an Accessory Dwelling Unit and the proposed second-floor would maintain a master bedroom and bathroom for the principal dwelling. Currently this area maintains a single-story garage and a separate

shed in the rear. The garage was proposed to be removed and the shed to be relocated further to the south.

The Board first discussed the fact that a variance was noticed in the application's legal advertisement. It had been determined by a current Building Inspector at the time that language with Section 5.4.7 of the Zoning Bylaw, Accessory Apartments, stated, "*An Accessory Apartment shall have a gross floor area not to exceed the lesser of 1000 square feet or one-third of the gross floor area of the Principal Single-Family Dwelling on the lot, exclusive of any garage, unfinished basement, shed or other accessory structure thereon.*" The Building Inspector interpreted the language of 'on the lot' to require the principal dwelling square-footage to exist before being able to use such to allow for additional square-footage for the Accessory Apartment. Based on the existing dwellings square-footage, it would allow for an Accessory Apartment of 610 square-feet, where 726 square-feet was proposed; thus, the interpreted requirement for a variance. The Applicant opined that if the Special Permit were to be granted for the additional square-footage to the principal dwelling, in this case the proposed second-story, no Variance would be required and a Special Permit could be granted for the Accessory Apartment's proposed square-footage. The principal dwelling was proposed to increase by 396 square-feet, resulting in a total area of 2,245 square-feet; which in turn would allow an Accessory Apartment square-footage up to 740 square-feet. It was discussed that the Applicant could seek a Special Permit for an addition to the principal dwelling, and after construction convert the space to an Accessory Apartment by-right. The Board determined that this was not the intent of the Bylaw as they wished to discuss and vote on Accessory Apartments when new square-footage was proposed. They found that a Special Permit and not a Variance was required for the application.

The Board then discussed the proposal itself and suggested that the Applicant should explore a way to reduce the proposed height of the second-story or increase its side-yard setback. The Board found the change from a one-story non-residential garage to a two-story completely habitable addition a concern. The Applicant provided examples of new additions that were constructed in the surrounding area. It was stated that the rear of the lot grades upwards and any by-right addition would block desired natural light and would also prohibit future desire for a pool and useable outdoor space.

The existing dwelling with the one- to two-story addition is depicted on a Certified Plot Plan ("the Plot Plan") prepared and certified by Stephen M. Melesciuc, Professional Surveyor No. 39049, dated August 31, 2021. Architectural layouts and elevations for the proposed addition, consisting of sheets one through thirteen, dated August 23, 2021, prepared by Nancy Twomey of Twomey Design, 23 California Road, Reading, MA 01867, were also submitted with the Petitioner's application.

The hearing was opened to public comment. Mr. Jay Tangney of 15 Priscilla Road stated he was the direct abutter to the proposed addition. He presented concerns due to the proposed second-story and how it would impact his dwelling. It was added that a letter of opposition

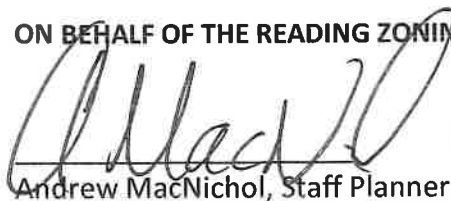
from Mr. Tangney was also submitted to the Board. Mr. Tangney's counsel continued that a garage is allowed to encroach further into setbacks than principal dwellings. He found a number of recent additions in the neighborhood to comply with setbacks despite the small lot sizes. The same concern of an uninhabitable garage changing to habitable space was presented. Ms. Gloria Donahue of 12 Priscilla Road expressed concern of future parking demand. Ms. Twomey replied that Accessory Apartments are limited to no more than three people and two-bedrooms. The performance standards must be maintained at all times.

***Ms. Hartman made a motion to grant a Finding that when an Accessory Apartment is proposed in conjunction with a proposed addition to the Principal Dwelling, a Variance for the Accessory Apartment square-footage shall NOT be required if said Principal Dwelling addition is allowed by-right or is voted in the affirmative. Instead the proposed Accessory Apartment square-footage, that is based on the existing Principal Dwelling square-footage and proposed Principal Dwelling square-footage, can be issued by Special Permit. Ms. Mateev seconded the motion and it was approved 4-0-0.***

Based on the stated concerns the Applicant requests to ***Withdraw Without Prejudice*** the request for a Special Permit on the property located at **9 Priscilla Road**, Reading, Massachusetts (Case No. 21-11).

Any person aggrieved by the 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.

ON BEHALF OF THE READING ZONING BOARD OF APPEALS

 10/13/21  
Andrew MacNichol, Staff Planner

**Board members sitting and voting on Case No. 21-11**  
Jamie Maughan, Hillary Mateev, Cynde Hartman, Alex Normandin

