



Town of Reading

16 Lowell Street, Reading, MA 01867

Zoning Board of Appeals

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readingma.gov/zoning-board-of-appeals

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Decision on the Petition of

Michelle and Joe Albano

On the Property Located at

344 Summer Avenue, Reading, Massachusetts

Case No. 21-15

11/9/21

The Zoning Board of Appeals (the "Board") opened and held a public hearing on **Tuesday November 9, 2021** at 7:00 p.m. in the Conference Room at Reading Town Hall, 16 Lowell Street in Reading, Massachusetts to hear the petition of **Michelle and Joe Albano** (The "Petitioner"). The Petitioner sought a Special Permit under Sections 7.3 and 7.3.2 of the Zoning By-laws **to create a third-floor dormer** that extends an existing non-conforming structure **upwards in height** on the dwelling located at the property of **344 Summer Avenue** 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 (15,000sf) and frontage (100 linear feet) requirements for the zoning district it is in. The lot currently maintains 7,700sf of area and 70 linear feet of frontage along Summer Avenue. The existing dwelling (a "Colonial" style house, circa 1929) is deemed a legal, non-conforming structure due to less than required minimum side-yard setbacks to the property line. The dwelling maintains a 9.5' side-yard setback to the-northeast where 15' is required.

The Petitioner was present at the meeting, along with the project architect Nancy Twomey. It was stated that the Petitioner is **seeking a Special Permit for an increase of height** to the existing non-conforming structure. Dormers are to be added to the second-story of the dwelling and the total height of the structure will increase by approximately 3-feet. Currently the dwelling is approximately 30-feet tall and with the proposed changes it shall be 33-feet tall, conforming to the 35-foot maximum height requirement of the S-15 District. The Building Commissioner submitted a memo dated November 9, 2021 which was read into the record. Summarized it stated that permits have been issued in the past by-right for similar projects but the interpretation of the Bylaw has changed so that going upwards on an existing non-conformity is in fact an extension of such non-conformity and will require relief from the Zoning Board of Appeals going forward.

The existing dwelling with proposed addition is depicted on a Certified Plot Plan ("the Plot Plan") prepared and certified by Thomas M. Killion of Medford Engineering and Survey, Professional Surveyor No. 32095, 15 Hall Street, Medford, MA 02155, dated April 4, 2005. Architectural layouts and elevations for the proposed addition, consisting of sheets 1 thru 9, dated September 16, 2021, prepared by Twomey Design, 23 California Road, Reading, MA 01867, were also submitted with the Petitioner's application.

The Board found that the proposed changes kept the character of the existing dwelling and fit the neighborhood. Due to the 7,700 square-foot lot size, options were limited and the Board found the increase in height to not be any more detrimental to the neighborhood. Maintaining historic elements of the dwelling was also found to be beneficial. Following discussion with the Petitioner and comment among Board members, the meeting was opened to public comment and, with no input from the public forthcoming, subsequently closed. It was noted that five letters of support were submitted from abutters.

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".

A motion was made and seconded by Board Members that the proposed 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 By-laws for a proposed increase to height to an existing non-conforming dwelling. The Board voted in the affirmative (4-0-0) to grant a Special Permit in order to construct the dormer addition to the dwelling at **344 Summer Avenue** as shown on the previously noted Certified Plot Plan and Architectural plans submitted, with the following conditions attached.

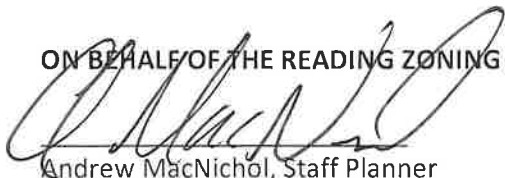
1. The Petitioner shall submit to the Building Inspector a Certified Plot Plan of the proposed construction and proposed foundation plans for the work prior to the issuance of a foundation permit for the work.
2. The Petitioner's final construction plans for the proposed addition shall be submitted to the Building Inspector, along with as-built foundation plans, prior to the issuance of a Building Permit for the work.
3. As-built plans of the completed construction shall be submitted to the Building Inspector immediately after the work is completed and prior to the issuance of an Occupancy Permit.

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.

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

A handwritten signature in black ink, appearing to read 'Andrew MacNichol', is written over a horizontal line.

Andrew MacNichol, Staff Planner

Board members sitting and voting on Case No. 21-15

Hillary Mateev, Alex Normandin, Cynde Hartman, Cy Caouette

