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**ZONING BOARD OF APPEALS
DECISION ON THE PETITION OF
O. BRADLEY LATHAM, AS AGENT OF
PAUL AND DONNA SWEENEY
FOR THE PROPERTY LOCATED AT
168 WALNUT STREET, READING, MA 01867**

**June 5, 2019
Case No. 19-10**

The Zoning Board of Appeals (the "Board") held a public hearing on Wednesday, June 11, 2019 at 7:00 p.m. in the Selectman's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts to hear the petition of O. Bradley Latham (the "Petitioner") acting as agent of Paul and Donna Sweeney, the owners. The Petitioner sought a Special Permit for an attached Accessory Apartment under Sections 5.3.2 and 5.4.7.2 of the zoning bylaws in order to allow an accessory apartment within their property located at 87 Franklin Street, Reading, Massachusetts (the "Property"). Additionally, the Petitioner requested a waiver under Section 5.4.7.3.

The Property is located on a 21,970 square foot lot located in an S-15 district, and includes a primary home of 2,442 square feet. The applicant intends to construct a new two story addition to an existing Single Family home and expand the first-floor to include a 24' x 30.5 (998 square feet) accessory apartment, with an attached 12' x 24' garage.

The applicable performance standards require the accessory apartment not exceed the lesser of 1,000 square feet or one-third the gross area of the principal dwelling on the lot. A third of the principal dwelling is 814 square feet and the applicant requested a waiver of 184 square feet to construct the apartment that totals 998 square feet. While the proposed accessory use meets the performance standards, including being less than 1,000 square feet, the proposal necessitates a waiver under section 5.4.7.3 to facilitate access and mobility for persons disabled, since the apartment is more than a third of the primary residence. Ample and appropriate documentation attesting to the medical necessity of the waiver was provided and entered into the record.

The proposed addition is depicted on the submitted Certified Plot Plan (the "Plot Plan") dated April 22, 2019, prepared and certified by John D Sullivan III, P.E., of P.O. Box 2004 Woburn, MA. The proposed addition is depicted on an unnumbered seven page packet of architectural drawings and layouts, prepared by Phoenix Architects, of 9 Foster St # 2, Wakefield, MA 01880, dated February 2, 2019, showing the existing principal and proposed detached accessory apartment submitted as part of the application and reviewed by the Board.

Section 5.4.7.3 of the Reading Zoning By-laws provides the Performance Standards that shall apply to all Accessory Apartments. The Board discussed the standards with the Petitioner. Following discussion and comment by Board members and opening and closing the hearing to public comment; all the Board members concluded that the proposed dwelling with the accessory apartment, as shown on the aforementioned plot plan and architectural drawings, conforms to the performance standards of the By-law noted herein, to be eligible for a Special Permit.

A motion was made and seconded, and the Board voted 5-0-0 in the affirmative to grant a Special Permit to the Petitioner under Sections 5.3.2, 5.4.7.2, as well as a waiver under 5.4.7.3 of the Zoning Bylaws in order to build an accessory apartment as reflected in and consistent with (1) aforementioned Certified Plot Plan and, (2) aforementioned Architectural Drawings included with the application, *consistent* with conditions hereinafter. The conditions of the Board's approval shall be as follows:

The Special Permit is conditioned upon the following:

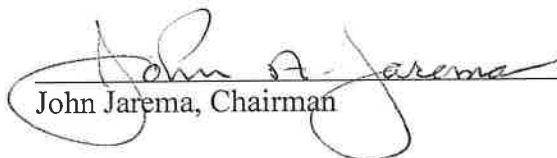
1. The Petitioner shall submit to the Building Inspector a Certified Plot Plan of the proposed construction and proposed foundation plans, prior to the issuance of a foundation permit for the work.
2. The Petitioner's final construction plans for the new structure shall be submitted to the Building Inspector, 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, 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.

The 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


John Jarema, Chairman

Board Members voting on Case # 18-21:

John Jarema (yes), Nick Pernice (yes), Damase Caouette (yes), Kyle Tornow (yes), Erik Hagstrom (yes)

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