

**TOWN OF READING**  
**ZONING BOARD OF APPEALS**  
**DECISION ON THE PETITION OF JOSHUA LATHAM, on behalf of, STONEGATE**  
**CONSTRUCTION CORP**  
**FOR THE PROPERTY LOCATED AT**  
**259-267 Main STREET, READING, MASSACHUSETTS**

**October 2, 2019**  
**Case No. 19-19**

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The Zoning Board of Appeals held a public hearing on Wednesday, October 2, 2019 in the Select Board's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts to hear the petition of Stonegate Construction Corp. (the "Petitioner"). The Petitioner sought a Special Permit under Section 7.2 of the Reading Zoning Bylaws, OR a Variance from Sections 5.3.2 - Table of Uses and 5.4.6 of the Reading Zoning Bylaws,, OR a determination pursuant to Section 4.6.2.4 of the Reading Zoning By-laws, to allow the use of an accessory parking area in part of the residentially zoned portion of the property at 259-267 Main Street in Reading, Massachusetts (the "Property").

The Property is comprised of two lots identified as Lots 39 and 40 on Assessor's Map 12. The area of the two lots total approximately 189,526 square feet of land. The Property is located within the A-40 District for a depth of 150' from the centerline of Main Street for the full length of its frontage on Main Street. A small portion is within the Business-A District while the majority of the Property is zoned S-15. The Property includes approximately 104,000 square feet of jurisdictional wetlands, with a perennial stream that divides the property from north to south.

The portion of the Property located between Main Street and the wetlands has been used historically by a fuel oil delivery business for its offices, parking, and storage as a preexisting, nonconforming commercial use. This includes an area used for commercial parking and storage within the S-15 District. The Petitioner presented evidence, including aerial photographs and affidavit of the current owner, to establish that the area proposed to be converted to residential parking has been used historically for commercial parking and storage as a preexisting, nonconforming use.

The Petitioner proposed to construct a single multifamily residential building, comprised of 24 dwelling units, within the A-40 District portion of the Property. Residential multifamily use is allowed "by right" within the A-40 District. The Petitioner also proposed to convert and expand the existing commercial parking area located within the S-15 District for use as accessory parking for the multifamily residential use. In accordance with the Zoning Bylaws, General Bylaws and state law, the Petitioner's proposal will require Site Plan Review by the Community Planning and Development Commission and Conservation Commission approval.

Parking is not a designated use in the Table of Uses and multifamily residential use is not an allowed principal use within the S-15 District. Therefore, the Petitioner seeks zoning relief to allow use of a portion of the Property within the S-15 District as parking accessory to the proposed multifamily residential use in the A-40 District. The Petitioner presented a plan, entitled "Zoning Board of Appeals

Plan” prepared by Hancock Associates, dated August 6, 2019, showing the area for the proposed residential parking lot. The Petitioner seeks a Special Permit pursuant to Section 7.2 to change or substantially extend a preexisting, non-conforming use, or a variance from Section 5.3.2, Table of Uses, and 5.4.6 to allow parking for multifamily residential use within the S-15 District, or a determination by the Board as to the applicability of Section 4.6.2.4 to the requested relief.

Section 7.2 of the Bylaws provides that a “[nonconforming] use may be reconstructed, altered, extended, or structurally changed only if the Zoning Board of Appeals determines that such reconstruction, alteration, extension, or structural change shall not be substantially more detrimental than the existing nonconforming use to the neighborhood....”

The Petitioner demonstrated that the proposed use for multifamily residential parking is harmonious with the neighborhood and consistent with other multifamily and commercial uses of the S-15 District in the area. The Property is bordered to the north and south by multifamily residential properties. The parking lots serving these multifamily residential properties are substantially closer to abutting residential homes than Petitioner’s proposal. The residential homes on Knollwood Road, bordering the easterly boundary of the Property, are separated from the proposed parking lot by a perennial stream and over 200 linear feet of natural wetlands buffer. The multifamily residential property to the north of the Property, located at 295 Main Street, includes a residential parking lot providing approximately 49 parking spaces within the S-15 District. Conversely, the Petitioner proposes a parking lot that would provide approximately 12 parking spaces.

The Board finds that the Petitioner’s proposed multifamily residential parking lot would not be substantially more detrimental to the neighborhood than the existing commercial parking and storage use. Residential parking is more conforming within the S-15 District. The proposed multifamily parking is consistent with other multifamily residential uses on the abutting properties at 237 Main Street (Belmont Arms Condominium) and 295 Main Street (Avon House Condominium). The Petitioner presented evidence demonstrating that, in light of the narrow depth of the zoning districts along this area of Main Street, property owners commonly use portions of their lots that are in the S-15 District to provide parking for commercial and multifamily uses in the Business A and A-40 Districts. The Petitioner’s proposal is thus compatible with the provision of parking in the S-15 District to serve commercial and multifamily uses along the southern Main Street commercial corridor.

The Board further finds that the Petitioner’s proposed use is in harmony with the general purpose and intent of the Zoning Bylaws, to encourage the appropriate use of land and to allow expansion of nonconforming situations when there is no appreciable, adverse impact upon adjoining properties. While the Property is zoned A-40 and S-15 and consists of over 4 acres, the overlay of wetlands jurisdiction, zoning boundaries, and dimensional setbacks result in a very limited area usable for multifamily residential parking. The Petitioner’s proposed use will enable appropriate redevelopment of the site for multifamily use (an allowed use), beautification of the Property, and significant improvement to this area of Main Street. The proposed redevelopment will have a positive fiscal impact on town services and the tax base by adding 24 dwelling units in place of the underutilized and unattractive commercial use.

A motion was made and seconded by Board Members, on the basis that these findings would not be substantially more detrimental to the neighborhood than the existing use and would meet the requirements for a Special Permit under Section 7.2 of the Reading Zoning Bylaw. The Board voted in the affirmative (4-0-0) to grant the Petitioner a Special Permit pursuant to Section 7.2 of the Zoning Bylaws to allow reconstruction, alteration, extension, and structural change to the preexisting, nonconforming commercial parking and storage area located within the S-15 District of the Property, as identified on the plans submitted by Petitioner, subject to the following conditions:

1. Petitioner may use that area as depicted on the plan entitled "Zoning Board of Appeals Plan" prepared by Hancock Associates, stamped and dated August 6, 2019, for no more than 12 parking spaces, loading, and driveways that are accessory to the proposed multifamily, residential use of the A-40 District portion of the Property.
2. Petitioner shall obtain Site Plan Approval from the Community Planning and Development Commission for the design and configuration of the parking area as authorized by the Special Permit granted hereby.
3. Petitioner shall obtain such approvals from the Conservation Commission as are necessary for construction and use of the parking area as authorized by the Special Permit granted hereby.
4. 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.
5. 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.
6. 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.

At the hearing a motion was also made, seconded and approved (4-0-0) to accept the request of the Petitioner to withdraw, without prejudice, its petition for a Variance from Sections 5.3.2 and 5.4.6, and a determination pursuant to Section 4.6.2.4, of the Reading Zoning By-laws.

Any person aggrieved by this decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws chapter 40A, Section 17 within twenty (20) days after the date of filing of this decision with the Town Clerk. Notice of an appeal with a copy of the complaint must also be filed with the Town Clerk within twenty (20) days as provided in Section 17.

This Special Permit shall not take effect until a copy of this decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after this decision was filed with the Town Clerk and that no appeal has been filed or if an appeal has been filed within such time 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 will reverse the permit and that any construction performed under the Special Permit may be ordered undone

ON BEHALF OF THE READING ZONING BOARD OF APPEALS



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Damase Caouette, Chair

Zoning Board Members voting on Case # 19-19  
Damase Caouette, Erik Hagstrom, John Jarema, Robert Redfern, Nick Pernice

RZBA Case No. 19-19 259-267 Main Street Spec Perm for Accessory Use: rer