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ZONING BOARD OF APPEALS  
DECISION ON THE PETITION OF BRIAN ANDERSON  
FOR THE PROPERTY LOCATED AT  
153 BANCROFT AVENUE, READING, MASSACHUSETTS

2018 MAY -2 PM 4: 33

April 18, 2018  
Case No. 18-06

The Zoning Board of Appeals (the "Board") held a public hearing on Wednesday, April 18, 2018 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 Brian Anderson (The "Petitioner"). The Petitioner sought a Special Permit under Section 6.3 and 7.3.2 of the Zoning By-laws for the construction of a deck within the required rear yard setback on the property located at 153 Bancroft Avenue in Reading, Massachusetts (the "Property").

The Property, located in the S-15 residential district, and the existing two-story residence is a non-conforming structure due to an existing rear yard setback of 10.4 feet, where the requirement is 20.0 feet. The Petitioner's representative at the meeting stated that the Petitioner is requesting a Special Permit under Section 6.3 of the Zoning By-laws to add a deck at the rear of the dwelling that will have a 19.1 feet rear yard setback. The Petitioner's representative explained that the new deck will be located along the side and rear of the existing dwelling. It was explained that the proposed deck conforms to the required side yard setback but, falls within the required rear yard setback. As the existing dwelling's rear yard setback exists at 10.4 feet, the proposed rear yard setback of the deck will not create a new non-conformity in the rear yard. The dwelling and proposed deck is depicted on a Certified Plot Plan ("the Plot Plan") prepared by Edward J. Farrell, 110 Winn Street, Suite 203, Woburn, MA and stamped by Edward J. Farrell, MA Professional Engineer 334613, dated December 22, 2017 and stamped December 29, 2017.

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 and comment among Board members, the meeting was opened to public comment and comments heard. The Board, after public comment, had further discussion regarding, if in fact, a new nonconformity will be caused by the proposed new deck.

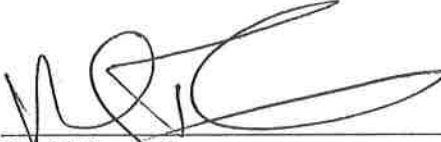
A motion was made and seconded that the proposed deck, with a rear yard setback of 19.1 feet is, in fact, an increase of an existing nonconformity. A 1-4-0 vote was taken on this motion. One member voting that the proposed deck would be an increase in a nonconformity and four members voting that the proposed deck would not increase an existing nonconformity at the Property. (Traniello affirmative; Jarema, Caouette, Hagstrom, Redfern opposed).

A second motion was made and seconded with the finding that the proposed construction of the deck will not be substantially more detrimental to the neighborhood; the Board voted 4-1-0 to grant the Petitioner's request for a Special Permit under Section 7.3.2 of the Zoning By-laws in order to add a deck to the side and rear of the existing non-conforming structure on the property located at 153 Bancroft Avenue in Reading, Massachusetts, as shown on the referenced Plot Plan of land. (Jarema, Caouette, Hagstrom, Redfern affirmative; Traniello opposed).

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 Variance and Special Permits 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 ZONNG BOARD OF APPEALS



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David Traniello, Chairman

Zoning Board Members voting on Case # 18-06  
David Traniello, John Jarema, Damase Caouette, Erik Hagstrom, Robert Redfern