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DECISION ON THE PETITION OF ALICE BELTRAN RODMAN

**FOR THE PROPERTY LOCATED AT
29 GARDNER ROAD, READING, MASSACHUSETTS**

**September 7, 2017
Case No. 17-07**

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, September 7, 2017, continued from August 3, 2017, 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 Alice Beltran Rodman (The "Petitioner"). The Petitioner seeks a Special Permit for an existing, detached Accessory Apartment under Section 5.4.7 of the Zoning By-laws on the property located at 29 Gardner Road in Reading, Massachusetts (the "Property"). On August 3, 2017, after discussions with the Board, the Petitioner requested a continuance to September 7, 2017 in order to confer with and to clarify details with the Town Building Inspector regarding the size of the detached Accessory Apartment and the current status of the accessory structure.

The Petitioner's Property is located in the S-15 Zoning District. The existing lot and dwelling is considered "legal non-conforming" as both the lot and principal structure pre-date the establishment of the Town's zoning by-laws. The Petitioner explained that the existing detached accessory structure on the lot has been in continuous use as an Accessory Apartment since 1957, and the Petitioner is requesting a Special Permit, in conjunction with current Town Zoning By-laws, in order to maintain the use of the existing detached accessory structure as an accessory apartment. No altering modifications are planned to the existing accessory structure by the Petitioner. A plot plan with the existing, detached accessory apartment is depicted on the submitted Certified Plot Plan ("the Plot Plan") prepared and stamped by Andrew C. Bramhill, Massachusetts Professional Land Surveyor, Benchmark Survey, 41 Elm Street, Stoneham MA, plan dated September 3, 2017.

Section 5.4.7.3 of the Reading Zoning By-laws provides the Performance Standards that shall apply to all Accessory Apartments. The Board deemed that the Petitioner met all performance standards with the exception of maximum square footage allowed for an accessory apartment. The accessory structure in question predates the Town's zoning by-laws and, has been in continuance use as a detached accessory apartment since 1957. The Board considered this a "grandfathered" use. In a memorandum to the Board dated August 30, 2017, the Town Building Commissioner/Zoning Enforcement Officer and, the Town Community Development Director advised that the existing detached structure at 29 Gardner Road has been in existence in some form since the early 1900's and would be considered a legal non-conforming structure if it were determined that it does not comply with the current Zoning By-law.

Following discussion and comment by Board members and, opening and closing the hearing to public comment, the Board found that even though the existing, detached accessory apartment exceeds the maximum floor area required by the Town's current By-laws Section 5.4.7, it meets all other standards required of a detached accessory apartment and, because of its

“legal non-conforming” grandfathered status, is eligible for a Special Permit despite the maximum floor area.

A motion was made and seconded and the Board voted 5-0-0 in the affirmative to grant a Special Permit to Alice Beltran Rodman (the Petitioner) under Section 5.4.7 of the Zoning By-laws in order to maintain the existing detached accessory structure for use as an accessory apartment on the property located at 29 Gardner Road in Reading, Massachusetts, as reflected on the aforementioned Certified Plot Plan submitted.

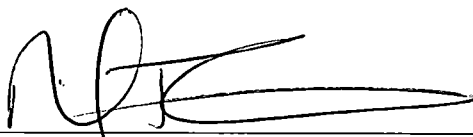
The Petitioner requested to withdraw their petition for a Variance in exceeding the maximum floor area requirement for an accessory apartment, The Board found that the use of accessory apartment at this address is an allowed use and the size of the accessory apartment, as it exists currently, has been in continuous use for a period of more than 10 years. Under M.G.L. Ch. 40A, Section 7, this would be considered a “grandfathered” legal non-conforming use. A motion was made and seconded and the Board voted 5-0-0 in the affirmative to allow the Petitioner to withdraw their request for a Variance as the request was no longer deemed necessary.

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 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



David Traniello, Chairman

Board Members sitting and voting on Case # 17-07
David Traniello, John Jarema, Erik Hagstrom, Damase Caouette, Robert Redfern