

TOWN OF READING

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**ZONING BOARD OF APPEALS
DECISION ON THE PETITION OF PAUL E. FERAZZI
TRUSTEE OF BANCROFT REALTY TRUST
FOR THE PROPERTY LOCATED AT
86 BANCROFT AVENUE, READING, MASSACHUSETTS**

SEP 15 P 1:05

**September 1, 2016
Case No. 16-17**

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, September 1, 2016, at 7:00 p.m. in the Selectmen's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts, on the appeal of Paul E. Ferazzi (the "Petitioner"), pursuant to M.G.L. Ch. 40, Section 8 of a July 5, 2016 determination by the Building Inspector that the property located at 86 Bancroft Avenue (The Property) is not a grandfathered nonconforming three family dwelling and his denial of the building permit application. As may be needed, the Petitioner requested such other relief under M.G.L. Ch. 40A, Section 6 and any Variances and/or Special Permits required under Sections 6.3 and 7.0 of the Zoning Bylaw to allow use of the Property as a three family dwelling.

The Property is located in an S-15 Zoning District where the current Bylaw allows single family dwellings by right and multi-family dwellings are not permitted. The dwelling on the property is a nonconforming structure on a nonconforming lot. Attorney Steven L. Cicatelli, representing the Petitioner, made a presentation stating the property was a grandfathered, three family dwelling, having been used and assessed as a three family dwelling for many years. The Board also received a letter from Town Counsel dated August 29, 2016 indicating no facts were found to support the Petitioner's position that the three-family use was a lawfully nonconforming use. After considerable discussion among Board members and with the Petitioner and opening the meeting to the public, the Board determined there was insufficient documentation to factually support a conclusion that the property was a legal, grandfathered nonconforming three family dwelling. The current Bylaw does not allow multi-family use in a S-15 residential district.

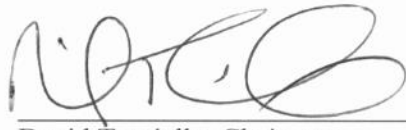
Accordingly, a motion was made and seconded, to grant the Petitioner his appeal of the Building Inspector's determination that the Property is not a grandfathered, nonconforming three family dwelling and the Board voted unanimously (0-0-5) to deny the Petitioner's appeal.

The Board then discussed Petitioner's request for relief under Sections 6.3 and 7.0 of the Bylaw to allow use of the Property as a three family dwelling. Section 6.3 does not allow multi-family use in a S-15 residential district and Section 7.0 allows the Board to grant a Special Permit to reconstruct, extend, alter or structurally change a nonconforming structure upon a finding such change shall not be substantially more detrimental to the neighborhood, and it may also grant a Variance if such changes create a new nonconformity. After discussion among Board members, a motion was made and seconded to grant the Petitioner relief from the Bylaw to allow use of the Property as a three family dwelling. The Board voted unanimously (0-0-5) to deny Petitioner's request for relief.

Any person aggrieved by this 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 'D. Traniello', written over a horizontal line.

David Traniello, Chairman

Zoning Board Members voting on Case # 16-17

Damase Caouette, Kathleen Hackett, John Jarema, Robert Redfern, David Traniello,