

RECEIVED
TOWN CLERK
READING, MASS.

TOWN OF READING, MASSACHUSETTS

DECISION OF THE ZONING BOARD OF APPEALS ON THE PETITION OF 2012 JUL 23 P 3: 09

THE TOWN OF READING FOR THE PROPERTY LOCATED AT

50 LOTHROP ROAD, READING, MASSACHUSETTS

July 12, 2012

Case No. 12-11

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, July 12, 2012, in the Selectmen's Meeting room at Town Hall, 16 Lowell Street in Reading, Massachusetts, to hear the Petition of the Town of Reading (the "Petitioner") who was represented by Peter Hechenbleiker, Reading Town Manager, and Gary Brackett, Reading Town Counsel. The Petitioner sought a Variance under Section 5.1.2 (Table of Dimensional Controls) / 5.2.1a / 5.2.1.b / 5.2.1.c / 5.2.2 of the Zoning By-Laws in order to construct a single family dwelling on a non-conforming lot on the property located at 50 Lothrop Road in Reading, Massachusetts (the "Property").

The Property is located in an S-20 Zoning District. The parcel is a non-conforming lot in that the frontage of the lot is 40.58 feet and the S-20 Zoning District's required frontage is 120 feet. The Petitioner is requesting a Variance in order to offer the Property for sale and that the parcel will be sold as a single building lot not to be subdivided. The proposed buildable area within the lot is shown on a Certified Plot Plan prepared by the Town of Reading Department of Public Works, Engineering Division, stamped by George J. Zambouras, P.E., Reading Town Engineer, dated May 16, 2012.

The Board of Appeals may grant a Variance if it finds that the four following conditions have been met: (1) particular circumstances existing relating to soil conditions, shape or topography of the land or structures that are subject to the petition, but do not generally affect the zoning district in which it is located; (2) a literal enforcement of the zoning ordinance would involve a substantial hardship, financial or otherwise; (3) the desirable relief can be granted without a substantial detriment to the public good; and (4) that the Variance does not nullify or substantially derogate from the intent or purpose of the zoning ordinance.

In their presentation, the Petitioner stated that the lot has existed since July 1958 as a separate parcel of land with a frontage on Lothrop Road of just over 40 feet, adequate for a driveway, but inadequate for frontage in the S-20 Zoning District. The Petitioner also stated that there was no possibility of acquiring the necessary land to give this lot the frontage on Lothrop Road required to conform to the Reading Zoning By-Law. The Petitioner then indicated that Town Meeting has

approved the disposition of this land, and without a variance there would be no possibility of selling the land. The Petitioner further indicated that the granting of a variance for this lot will not create a precedent and that the lot would be sold, and used, as a single building lot of 31,575 square feet which would be substantially larger than the minimum of 20,000 square feet required for this Zoning District.

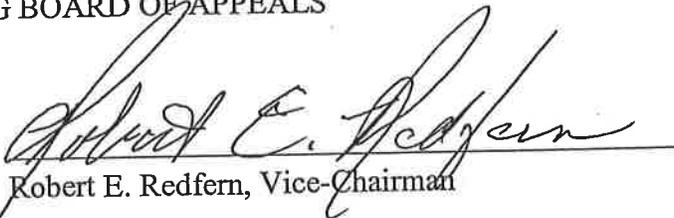
Following the Petitioner's presentation the hearing was opened to public comment and discussion of the Board. One of the abutters, Raymond Rose, 58 Lothrop Road, commented that his only concern was that the lot would be used only for the development of a single family home. The Petitioner then reiterated that if the Variance was approved, the Property would go out to bid advertised as a single building lot not to be subdivided. The Board concluded that granting a Variance for the proposed single building lot would not nullify or substantially derogate from the intent of the By-Laws.

Accordingly, a motion was made and seconded and the Board voted (5-0-0) to grant the Petitioner's request for a Variance from Section 5.1.2 / 5.2.1a / 5.2.1.b / 5.2.1.c / 5.2.2 of the Zoning By-Laws in order to construct a single family dwelling located on 50 Lothrop Road, Reading, as depicted on the previously referenced Certified Plot Plan.

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 Variance 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 is 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


Robert E. Redfern, Vice-Chairman

Zoning Board Members voting on Case # 12-11

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