

TOWN OF READING, MASSACHUSETTS
ZONING BOARD OF APPEALS
DECISION ON THE PETITION OF HEIDIE GUTIERREZ
FOR THE PROPERTY LOCATED AT
12-14 LINDEN STREET, READING, MASSACHUSETTS

March 7, 2013
Case Number 12-18

The Zoning Board of Appeals (the "Board") held a Public Hearing on Thursday, March 7, 2013 in the Selectmen's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts, to hear the petition of Heidie Gutierrez (the "Petitioner"). The Petitioner sought a Special Permit under Section 6.3.2 of the Zoning By-laws in order to extend or expand the first floor rear deck on the property located at 12-14 Linden Street in Reading, Massachusetts (the "Property"). The existing use of the property is a non-conforming use (residential) in a Business B district.

The Property is located in the Business B Zoning District and is a legal, non-conforming use (residential dwelling) for the zoning district. The Petitioner is requesting a Special Permit under Section 6.3.2 of the Zoning By-laws in order to extend / expand the first floor deck on the dwelling to the back corners of the house. The Petitioner first appeared before the Board of Appeals on January 3, 2013 and the Case was continued, at the request of the Petitioner, to March 7, 2013 to allow the Petitioner time to contract for a Certified Plot Plan showing the proposed construction of the rear deck. The proposed rear deck extension is depicted on a Certified Plot Plan ("Plot Plan") submitted on March 7, 2013 by the Petitioner. The Plot Plan was prepared by Middlesex Survey Inc., 131 Park Street, North Reading, MA 01864, stamped by Alphonse D. Haley, Professional Land Surveyor, dated February 11, 2013 and, titled Certified Plot Plan, Proposed Porch Addition in Reading, MA, 12-14 Linden Street, Reading, MA 01867.

The Petitioner made a presentation explaining how she wants to extend the existing first floor rear deck to the ends of the existing dwelling but the deck extension will not exceed the footprint (side yard setbacks) of the existing house.

Section 6.3.2 of the Reading Zoning By-laws allows the Board to grant a Special Permit to change or extend a non-conforming use only if it determines that such a change or extension shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

The Board found that the proposed extension of the rear deck, with proposed side setbacks of 20.1 feet at the southerly corner and 9.7 feet at the northerly corner, as shown on the Plot Plan, will not create a new non-conformity in regards to side yard setback and the proposed extension of the rear deck (porch) will not be substantially more detrimental to the neighborhood than the existing use as a residential dwelling.

The Chair opened the hearing to public comment and no public comments were received at the meeting. The Chair then closed the public comment portion of the hearing. Following, and upon a motion duly made and seconded, the Board voted unanimously (5-0-0) to grant the Petitioner's request for Special Permit under Section 6.3.2a of the Zoning By-laws in order to extend the existing rear deck at

12-14 Linden Street, Reading, MA, as shown on the referenced Plot Plan prepared by Middlesex Survey Inc.

This Special Permit is conditioned upon the following:

1. The Petitioner shall submit to the Building Inspector a Certified Plot Plan of the proposed construction and proposed foundation prior to the issuance of a foundation permit for the work.
2. The Petitioner's final construction plans for the new structure shall be submitted to the Building Inspector, along with the as-built foundation plan, prior to the issuance of a Building Permit for the new structure.
3. As-built plans showing the completed construction of the new structure shall be submitted to the Building Inspector immediately after the work is completed and prior to the issuance of an Occupancy Permit.

Any person aggrieved by this decision of the Board may appeal to the appropriate court pursuant to MGL 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 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



Damase Caouette, Chairman

Zoning Board Members voting on Case Number 12-18
David Traniello, John Jarema, Damase Caouette, Robert Redfern, Kathleen Hackett

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