

Town of Reading Zoning Board of Appeals

The Decision of the Board of Appeals on the Petition of

**Johnson Woods Realty Corporation
On the Property Located at
16 Kelch Street
Reading, Massachusetts
Case No. 13-07**

May 9, 2013

The Zoning Board of Appeals (the Board) opened a public hearing in the Selectmen's Meeting Room at the Town Hall, 16 Lowell Street, Reading, Massachusetts at 7:00 PM on Thursday, May 9, 2013, on the petition of Johnson Woods Realty Corporation, who sought a Special Permit under Section 6.3.8.1.b of the Reading Zoning By-laws (the By-laws) in order to remove the existing dwelling and construct a new single family dwelling on the property located at 16 Kelch Street, Reading, Massachusetts.

The Petitioner was represented by Attorney O. Bradley Latham, who detailed the proposal to demolish the existing dwelling and the plans to construct the new single family dwelling. The Board inquired about the condition of the existing dwelling, the size and location of the proposed new dwelling, and the benefit to the Petitioner. Attorney Latham provided photographs of the existing dwelling and premises, along with plot plans and as-built drawings of the proposed dwelling and elevation.

It was noted at the meeting that the Town Zoning Officer, C. Glen Redmond, had prepared a memo dated April 8, 2013, outlining the denial of Petitioner's Application for a Building Permit dated April 3, 2013, and requiring the instant application for Special Permit. In lieu of his attendance at the meeting, Mr. Redmond also submitted his written comments in support of the issuance of the Special Permit.

Section 6.3.8.1(b) of the By-laws provides that a Special Permit is required in the event that a proposed reconstruction of a dwelling in a Residential S-20 District would (a) cause the structure to exceed the volume or area of the original non-conforming structure or (b) cause the structure to be located other than on the original footprint. The Board of Appeals may allow such reconstruction, by Special Permit, where it determines that the proposed reconstruction will not be substantially more detrimental than the existing non-conforming structure to the neighborhood.

After questioning by the Board, and review of the materials submitted, the Board confirmed that the non-conformity was the size of the lot, that the proposed structure conformed to all setbacks and lot coverage in an S-20 District, and that the new construction would be consistent with and complementary to the existing dwellings in the neighborhood.

A motion was made and seconded and the Board voted 5-0-0 in the affirmative to grant a Special Permit to Johnson Woods Realty Corporation under Section 6.3.8.1 of the By-laws in order to remove the existing dwelling and construct a new single family dwelling on a non-conforming lot (area) on the property located at 16 Kelch Street, Reading, Massachusetts as reflected in and consistent with: (1) the certified plot plans dated March 15, 2013, prepared by Hayes Engineering, Inc., of Wakefield, Massachusetts and stamped by Peter J. Ogren, Professional Land Surveyor; and (2) drawings numbered A-1, A-2, and A-3 prepared by Grazado Velleco Architects of Marblehead, Massachusetts dated February 21, 2013. The conditions of the Board's approval shall be as follows:

1. The Petitioner shall submit to the Building Inspector a Certified Plot Plan of the proposed construction and proposed foundation plans, 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(s), prior to the issuance of a Building Permit.
3. The Petitioner shall submit as-built plans to the Building Inspector showing the completed construction immediately after the work is completed and prior to the issuance of an Occupancy Permit.
4. The Petitioner shall request permission from the appropriate town department to leave the security/fire gate at the end of Kelch Street into the apartment complex unlocked during the construction process for the ingress and egress of construction vehicles so as to minimize any inconvenience to the residents of Kelch Street.

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



Damase Caouette, Chairman

Board members voting on Case No. 13-07
Damase Caouette, Robert Redfern, John Jarema, Kathleen Hackett and David Traniello.