

Town of Reading Zoning Board of Appeals

The Decision of the Board of Appeals on the Petition of

**Lacey Paige
On the Property Located at
59 Federal Street
Reading, Massachusetts
Case No. 13-13**

June 20, 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, June 20, 2013, on the petition of Lacey Paige, (The Petitioner), who sought a Variance and a Special Permit under Section(s) 5.0 and 6.3.6 of the Reading Zoning By-laws (the By-laws) in order to construct a two-story addition 20' X 31' on the property located at 59 Federal Street, Reading, Massachusetts. The non-conformity is that the right side yard setback does not conform to the S-15 requirement of 15 feet.

The Petitioner detailed the proposal and the plans to construct the new two-story addition and deck at the single family dwelling. The Board inquired about the condition of the existing dwelling, the size and location of the proposed new addition, and the benefit to the Petitioner. The Petitioner provided plot plans and as-built drawings of the proposed two-story addition and deck, dwelling and elevation.

It was noted at the meeting that the Town Building Inspector/Zoning Officer, via C. Glen Redmond, had prepared a memo dated May 8, 2013, outlining the denial of Petitioner's Application for a Building Permit, as not in compliance with the required 15 foot side yard setback and requiring the application for Variance and/or Special Permit.

The Board determined that the Petition would be best considered under the criteria for a Special Permit rather than a Variance.

Section 6.3.6 of the By-laws provides that a Special Permit is required in the event that the Building Inspector determines, after consideration of Section 6.3.5(alteration of a non-conforming structure) that the nonconforming nature of such structure would be increased by the proposed extension, alteration or change, the Board may, by special permit, allow such extension, alteration or change where it determines that the proposal will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

After questioning by the Board and review of the materials submitted, the Board confirmed that the additional non-conformity caused by the proposed addition was a two inch (2") further encroachment into the required 15 foot side yard setback, which was due to the fact the property line was not completely square and jogged diagonally inward toward the subject residence. The Board further confirmed 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 Lacey Paige as petitioner for owners David and Pamela Kelly under Section 6.3.6 of the By-laws in order to construct a two-story addition on the property located at 59 Federal Street, Reading, Massachusetts, as reflected in and consistent with: (1) the certified plot plan dated April 29, 2013, prepared by Massachusetts Survey Consultants of 10 First Avenue, Suite 24, Peabody, Massachusetts and stamped by Thomas P. Bernardi, Professional Land Surveyor; and (2) as-built drawings dated June 20, 2013, of the proposed two-story addition, dwelling and elevation. 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.

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 Z. Caouette, Chairman

Voting Board members: Damase Caouette, Robert Redfern, John Jarema, Kathleen Hackett and David Traniello.