

Town of Reading Zoning Board of Appeals

The Decision of the Board of Appeals on the Petition of

**Town of Reading
For The Property Located At
186 Woburn Street, Reading, Massachusetts**

**July 11, 2013
Case No. 13-16**

The Reading Zoning Board of Appeals (the "Board") held a public hearing in the Selectmen's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts on Thursday, July 11, 2013 to hear the petition of the Town of Reading (the "Petitioner") who sought a Special Permit under Section 6.3.2 of the Zoning By-Laws (the "By-Laws") in order to allow a change in the number of parking spaces on the property occupied by St. Agnes Church (the "Church") which is owned by the Archdiocese of Boston and located at 186 Woburn Street, Reading (the "Property").

The Property is located in an S-15 Zoning District. Currently located on the Property at 172-186 Woburn Street are the Church, a rectory, a parish hall and a former school building. The Petitioner has provided the Board with a copy of a Letter of Intent, ("LOI"), by and between the Archdiocese of Boston and the Town of Reading (the "Petitioner"), which provides for the transfer of a portion of the Property on which the school is located, containing approximately 45,779 square feet of land and the school building, from the Archdiocese of Boston to the Town of Reading. The anticipated closing date is November 1, 2013. As part of that transfer, an approval not required ("ANR") plan would be submitted to the CPDC in the form of the Plan of Land, dividing the school property from the remaining parcel containing the Church, rectory and parish hall.

The use of the Property for religious purposes is allowed in the District as a matter of right pursuant to Section 4.2.2 Table of Uses of the By-Laws and Mass. Gen. Laws c. 40A, §3. The By-Laws do not currently contain a specific designation of the number of required parking spaces for the Church and the other three structures under the Table of Parking Requirements in Section 6.1.1. Mr. Glen Redmond, in an opinion dated June 24, 2013, stated a special Permit would be required under Section 6.3.2 in order to address the new parking conditions that would be created.

In applying the most closely analogous categories of parking requirements of Section 6.1.1 to the Property, it has been determined by Glen Redmond, Zoning Officer, and George Zambouras, Town Engineer, that comparing the number of required and existing parking spaces on the Property before and after the proposed transfer of the school would result in a reduction in the parking deficit for 186 Woburn Street. The specific calculations are contained on a Plan of

Land, dated April 22, 2013, which was presented at the meeting and subsequently updated through July 16, 2013 by George J. Zambouras, P.E., Town Engineer.

In addition, the LOI provides that, following the transfer of the school to the Town, the Town will allow the Church to use a minimum of 45 parking spaces on the school property for the Church for the benefit of its retained portion of the Property.

The Board may grant a Special Permit, pursuant to Section 6.3.2, to change or extend a nonconforming use if it determines that such change shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

Town Counsel Gary S. Brackett made a presentation on behalf of the Petitioner, detailing the existing and proposed dimensions of the Property, before and after the transfer of the school from the Archdiocese to the Town and, as the result of the above referenced parking calculations, indicated there will be no increase in the non-conformity of the Property as to the number of parking spaces.

The meeting was then opened up for public comment. Several citizens, who are residents of the neighborhood, stated concerns with the proposed use of the school by the Town and the issue of the impact of the reduced number of parking spaces on the Property to the neighborhood. Superintendent of Schools John Doherty advised the Board that the School Department will work closely with the Church to address parking concerns and use of the school property by the Church for parking on certain days and at certain times. Mr. Doherty also advised the Board that arrangements are being made to provide parking for the staff and teachers of the school on another parcel. Town Manager Bob LeLacheur also spoke in favor of the petition and advised the Board that the issues of the parking on the school site will also be addressed before Town Meeting in the fall and will be considered by the voters as part of a special election to be held in the fall to consider a debt exclusion override question on the ballot.

Attorney Brad Latham spoke on behalf of the Church in support of the petition. He stated that he disagreed with the parking requirement calculations on the basis that there was no specific parking requirement for the Church and the religious uses under the By-Laws. Attorney Brackett pointed out that the issue before the Board, as presented by the Petitioner, relates to whether the change in the number of parking spaces on the Property would be substantially more detrimental to the neighborhood than the existing number of parking spaces. While he acknowledged that the proposed use of the school parcel presented questions for the Board, Attorney Brackett stated that those issues were outside the scope of the review under Section 6.3.2.

Following the presentation and public input, the Board determined that the action before the Board was an issue of parking and whether the change in parking non-conformity resulting from the division of the property at 172-186 Woburn Street, coupled with the availability of a minimum of 45 parking spaces on the school portion of the Property to the Church to be used on

days and at times which are agreed to by the parties to address the needs of the Church was or was not substantially more detrimental to the neighborhood.

Upon a duly made motion and seconded, the Board voted (4-1-0) to grant the Petitioner's request for a Special Permit under Section 6.3.2 of the By-Laws in order to change the number of parking spaces on the Property as depicted in the referenced Plan of Land.

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 Special Permit and order that such person undo any construction performed under the Special Permit.

ON BEHALF OF THE READING ZONING BOARD OF APPEALS



Damase Z. Caouette, Chairman

Zoning Board Members Voting in favor of the Motion: Damase Caouette, Robert Redfern, John Jarema, David Traniello

Zoning Board Members Voting against the Motion: Kathleen Hackett