

TOWN OF READING

ZONING BOARD OF APPEALS

**DECISION ON THE PETITION OF GAIL JOHNSON (Arch Land Development LLC)
FOR THE PROPERTY LOCATED AT
84 CROSS STREET, READING, MASSACHUSETTS**

October 17, 2013

Case No. 13-19

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, October 17, 2013, at 7:00 p.m. in the Selectmen's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts, to hear the petition of Gail Johnson (Arch Land Development LLC) (the "Petitioner"). The Petitioner sought a Variance and/or a Special Permit under Section 6.3.3.2 of the Zoning By-Laws in order to demolish an existing non-conforming, single-family dwelling and to construct a new, single-family dwelling on a legal, non-conforming lot, as indicated on a plot plan dated September 23, 2013, on the property located at 84 Cross Street in Reading, Massachusetts (the "Property").

The Property is located in an S-15 Zoning District and is considered a legal, non-conforming lot due to the fact that the lot has less than the required frontage (70.0 feet vs. req'd. 100 feet) and, less than the required lot area (13,504 sq. ft. vs. req'd. 15,000 sq. ft.) for the zoning district. The Petitioner proposes to demolish the existing non-conforming, single-family dwelling and construct a new two-story, single-family dwelling with attached two-car garage that will conform to the required dimensional setbacks except for the proposed side yard setback on the easterly side. The proposed side yard setback on the easterly side is shown as 6.0 feet on the submitted Plot Plan. The side yard setback of the existing dwelling at this location is shown as 5.6 feet. There will be an improvement of 0.4 feet to the side yard setback at the easterly side of the lot. The footprint of the new dwelling is depicted on the Certified Plot Plan ("Plot Plan") titled "Proposed Foundation Plan, 84 Cross Street, Reading, Massachusetts, Assessors Map 12, Parcel 66". The Plot Plan was prepared by LJR Engineering, Inc., 234 Park Street, North Reading, MA 01864, dated September 23, 2013 and stamped by Scott M. Cerrato, Massachusetts PLS #50049. Architectural plans for the proposed two-story, single-family dwelling were also submitted with the application and are dated September 20, 2013. The architectural plans were prepared by Alan Carroll and are numbered 1 thru 5.

Section 6.3.3.2 of the Reading Zoning By-Laws allows the Board to grant a Special Permit for such reconstruction after voluntary demolition where the Board determines that the new construction will not increase an existing non-conformity or create a new non-conformity and, the new dwelling shall not be substantially more detrimental to the neighborhood than the former dwelling. Following a presentation by the Petitioner's representative Bill Johnson, discussion and comment by Board members and opening the hearing to public comment, the Board concluded that the proposed dwelling will not increase or create a new non-conformity in regards to proposed setbacks and, the new dwelling will not be substantially more detrimental to the neighborhood than the former dwelling at the site.

The Board was of the opinion that the Petitioner met the criteria for a Special Permit under Section 6.3.3.2 of the By-Laws and that a Variance would not be necessary in this case. Accordingly, a motion was made and seconded, and the Board voted unanimously (5-0-0) to grant the Petitioner's request for a Special Permit under Section 6.3.3.2 of the Zoning By-Laws to permit the demolition of the existing non-conforming, single family dwelling and to construct a new two-story, single family dwelling with attached garage on the existing legal, non-conforming lot on the property located at 84 Cross Street in

Reading, Massachusetts, as shown on the above-referenced Plot Plan and in general conformance with the architectural plans submitted with the application for the Special Permit.

The 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 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 plans, prior to the issuance of a Building Permit.
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 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 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

Zoning Board Members voting on Case # 13-19
Damase Caouette, Robert Redfern, John Jarema, David Traniello, Kathleen Hackett