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ZONING BOARD OF APPEALS
2014 MAR - 3 DECISION ON THE PETITION OF ROBERT K. AHERN
FOR THE PROPERTY LOCATED AT
51 LIBBY AVENUE, READING, MASSACHUSETTS

February 20, 2014
Case No. 14-04

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, February 20, 2014, 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 Robert K. Ahern (the "Petitioner"). The Petitioner sought a Special Permit under Section 6.3.8 / 6.3.1b of the Zoning By-Laws in order to demolish an existing single-family dwelling and to construct a new single-family dwelling on a non-conforming lot on the property located at 51 Libby Avenue in Reading, Massachusetts (the "Property").

The Property is located in an S-20 Zoning District and is considered a legal, non-conforming lot due to the fact that the lot has less than the required frontage (100 feet vs. required 120 feet) and less than the required area (10,000 sq. ft. vs. required 20,000 sq. ft.) for the zoning district. The Petitioner proposes to demolish the existing single-family dwelling and construct a new single-family dwelling on the Property that will conform to all required dimensional setbacks. The footprint of the new dwelling is depicted on the Certified Plot Plan ("Plot Plan") titled "Plot Plan of Land, 51 Libby Avenue, Reading, MA". The Plot Plan was prepared by the Sullivan Engineering Group, LLC, 22 Mount Vernon Road, Boxford, MA 01921, dated January 13, 2014 and stamped by John L. Sullivan, R.E. Civil, MA. Architectural plans for the proposed single-family dwelling were also submitted with the application and are dated February 1, 2012. The architectural plans are stamped by Gabor Szava-Kovats, Registered P.E., MA are titled "263 Franklin Street, Reading, MA" and are numbered A1 through A8.

Section 6.3.8.1b of the Reading Zoning By-Laws allows the Board to grant a Special Permit for such reconstruction after voluntary demolition of a dwelling where the Board determines that the new construction will not be substantially more detrimental to the neighborhood than the former dwelling. Following a presentation by the Petitioner, discussion and comment by Board members and opening the hearing to public comment, the Board concluded that the proposed dwelling will meet all required setbacks and that the new dwelling will not be substantially more detrimental to the neighborhood than the former dwelling.

Accordingly, a motion was made and seconded, and the Board voted unanimously (4-0-0) to grant the Petitioner's request for a Special Permit under Section 6.3.8.1b 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 on the existing legal, non-conforming lot on the property located at 51 Libby Avenue in Reading, Massachusetts, as shown on the above-referenced Plot Plan and in general conformance with the architectural plans submitted with the application for 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 # 14-04
Damase Caouette, Robert Redfern, David Traniello, Kathleen Hackett