

TOWN OF READING

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ZONING BOARD OF APPEALS
DECISION ON THE PETITION OF VICTOR J. SILVA
FOR THE PROPERTY LOCATED AT
166 WOBURN STREET, READING, MASSACHUSETTS

2014 SEP -3 P 1:01

August 21, 2014
Case No. 14-15

The Zoning Board of Appeals (the "Board") held a public hearing on Thursday, August 21, 2014 at 7:00 p.m. in the Selectman's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts to hear the petition of Mr. Victor J. Silva (The "Petitioner"). The Petitioner sought a Variance and/or a Special Permit under Section(s) 5.1.2/5.2.3.6/6.3.3.2/6.3.8 of the zoning bylaws in order to remove an existing non-conforming detached garage and to construct a new non-conforming garage located 3.2' from the property line on the property located at 166 Woburn Street, Reading, Massachusetts (the "Property").

The Petitioner's Property is in a S-15 District. The existing Property is the Petitioner's residence, and the existing detached garage is a non-conforming structure due to its proximity to the required 5-yard rear and side yard setback for detached garages in a rear yard pursuant to Section 5.2.3.6. The Petitioner explained that the proposed new detached garage structure would better accommodate vehicles and exceeds the original garage footprint, yet still maintains a 5.2 foot side-yard setback. He further stated that the request for a Special Permit under Section 6.3.3.2 or 6.3.8 of the zoning bylaws would not increase the rear yard non-conformity, but would in fact decrease said non-conformity as the proposed detached garage would maintain a 3.2 foot rear yard setback where the current garage is 3.0 feet. The proposed new structure is depicted in the Certified Plot Plan ("the Plot Plan") prepared by John D. Sullivan III, P.E., 22 Mount Vernon Road, Boxford, MA and stamped by John Sullivan III, Professional Engineer, dated June 25, 2014. Architectural Plans, pages 1 through 5, prepared by Middlesex Custom Carpentry, Inc., dated April 15, 2014, showing the proposed detached garage were also reviewed by the Board.

Section 6.3.3.2 of the Reading zoning bylaws provides, in relevant part: "The Board of Appeals may grant a Special Permit to reconstruct, extend, alter or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration or change does not increase the nonconforming nature of said structure or create a new nonconformity and shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood." Following discussion and comment by Board members and opening the discussion to public discussion, the Board concluded that the proposed new detached garage does not increase the nonconforming nature of said structure or create a new nonconformity and shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

Section 6.3.8.1(b) of the Reading zoning bylaws provides that a Special Permit is required in the event that a proposed reconstruction of a dwelling in a Residential S-15 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 proposed structure would not increase the existing non-conforming side yard setback of 5 feet per Section 5.2.3.6, would decrease the existing non-conformity of the rear yard setback from 3.0 feet to 3.2 feet, and that the proposed new structure would not be substantially more detrimental to the neighborhood.

A motion was made and seconded and the Board voted 5-0-0 in the affirmative to grant a Special Permit to Victor J. Silva under Sections 6.3.3.2 and 6.3.8.1(b) of the By-laws in order to remove an existing non-conforming detached garage and to construct a new non-conforming garage located 3.2' from the property line on the property located at 166 Woburn Street in Reading, Massachusetts as reflected in and consistent with: (1) Certified Plot Plan ("the Plot Plan") prepared by John D. Sullivan III, P.E., 22 Mount Vernon Road, Boxford, MA and stamped by John Sullivan III, Professional Engineer, dated June 25, 2014 and (2) Architectural Plans, pages 1 through 5, prepared by Middlesex Custom Carpentry, Inc., dated April 15, 2014. The conditions of the Board's approval shall be as follows:

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 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

 9/3/14
Robert Redfern, Chairman
By David Traniello, Vice Chairman

Board Members voting on Case # 14-15
Robert Redfern, David Traniello, Damase Caouette, John Jarema, Kathleen Hackett