



Town of Reading

16 Lowell Street, Reading, MA 01867

Zoning Board of Appeals

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readingma.gov/zoning-board-of-appeals

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Decision on the Petition of

Daniel Baptiste/Baptiste Family Living Trust

On the Property Located at

71 Middlesex Ave, Reading, Massachusetts

Case #22-12

September 7, 2022

The Zoning Board of Appeals (the "Board") opened and held a public hearing on **Wednesday, September 7, 2022** at 7:00 p.m. through remote and online measures to hear the petition of **Daniel Baptiste/Baptiste Family Living Trust** (The "Petitioner"). The Petitioner sought a Special Permit under Sections 7.3 and 7.3.2 of the Zoning By-laws to construct a one-story addition that extends along an existing non-conforming front-yard setback on the dwelling on the property located at **71 Middlesex Ave** in Reading, Massachusetts (the "Property").

The Property is located in the **S-15** residential district of Reading. The existing lot is considered legal non-conforming, due to the fact that it does not meet the current area (15,000sf) and frontage (100 linear feet) requirements for the S-15 zoning district it is in. The existing dwelling (circa 2014) is deemed a legal, non-conforming structure due to less than required minimum front-yard setbacks to both the southern and western property lines. The Petitioner was present at the meeting, along with the project architect Nancy Twomey. It was stated that the Petitioner is seeking a Special Permit for a single-story addition at the southwestern corner of the existing dwelling. The existing dwelling with proposed addition is depicted on a Certified Plot Plan ("the Plot Plan") prepared and certified by **John D. Sullivan III, Professional Surveyor No. 41586, P.O. Box 2004, Woburn, MA 01888**, dated July 18, 2022. Architectural layouts and elevations for the proposed addition, consisting of sheets 1 through 9, prepared by Lee Kimball, PO Box 617, Reading, MA, 01867, were also submitted with the Petitioner's application. The architectural sheets depicted existing and proposed floor plans and building elevations/renderings.

The existing dwelling is located on a corner lot that fronts Deering Street and Middlesex Avenue. It currently maintains pre-existing non-conforming setbacks of 9.8-feet from Deering Street and 18.4' from Middlesex Avenue. The proposed single-story addition would maintain a 11.9-foot setback from Deering Street and a 20.8-foot setback from Middlesex Avenue. It was noted that there was an existing driveway located on Deering Street but was removed and relocated to Middlesex Avenue for better access to the proposed addition.

The Board discussed the merits of the application and found that the setback from Deering Street being more than the existing setback and the setback from Middlesex Avenue being conforming to the front-yard setback requirements of the S-15 Zoning District was not more detrimental to the neighborhood than the existing dwelling. Following discussion with the Petitioner and comment among Board members, the meeting was opened to public comment and, with no input from the public forthcoming, subsequently closed. However, it was noted that four letters of support were submitted from abutters as part of the application.

Section 7.3.2 of the Reading Zoning By-laws states, in relevant part, "For those alterations not eligible for a building permit pursuant to Section 7.3, the Zoning Board of Appeals may grant a Special Permit to reconstruct, extend, alter, or structurally change a nonconforming building or structure upon a finding that such reconstruction, extension, alteration or structural change shall not be substantially more detrimental to the neighborhood than the existing nonconforming building or structure".

A motion was made and seconded by Board Members that the proposed addition would not be substantially more detrimental to the neighborhood than the existing dwelling and, would meet the requirements for Special Permit under Section 7.3.2 of the Reading By-laws for a proposed addition to an existing dwelling. The Board voted in the affirmative (4-0-0) to grant a Special Permit in order to construct the proposed single-story structure as the dwelling located at **71 Middlesex Ave** as shown on the previously noted Certified Plot Plan and Architectural plans submitted, with the following conditions attached:

1. The Petitioner shall submit to the Building Inspector a Certified Plot Plan of the proposed construction and proposed foundation plans for the work prior to the issuance of a foundation permit for the work.
2. The Petitioner's final construction plans for the proposed addition shall be submitted to the Building Inspector, along with as-built foundation plans, prior to the issuance of a Building Permit for the work.
3. As-built plans of the completed construction 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 the 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



Andrew MacNichol, Senior Planner

Board members sitting and voting on Case #22-12

Cynde Hartman, Andrew Grasberger, Patrick Houghton, Cy Caouette