

RECEIVED
TOWN CLERK
READING, MA.

TOWN OF READING

**ZONING BOARD OF APPEALS
DECISION ON THE PETITION OF WALT DAVIS
FOR THE PROPERTY LOCATED AT
28 BERKLEY STREET, READING, MASSACHUSETTS**

2019 SEP -3 AM 10:55

**August 21, 2019
Case No. 19-18**

The Zoning Board of Appeals (the "Board") opened and held a public hearing on Wednesday, August 21, 2019 at 7:00 p.m. in the Select Board's Meeting Room at Town Hall, 16 Lowell Street in Reading, Massachusetts to hear the petition of Walt Davis (The "Petitioner"). The Petitioner sought a Special Permit under Sections 7.3 and 7.3.2 of the Zoning By-laws to create a two-story addition that extends an existing non-conforming side-yard setback on the dwelling on the property located at 28 Berkley Street 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 and frontage requirements for the zoning district it is in. The existing dwelling (an "Old" style house, circa 1920) is deemed a legal, non-conforming structure due to less than required minimum front and side-yard setbacks to the property line. The Petitioner was present at the meeting, along with the property owner Ann Margaret Eames. It was stated that the Petitioner is seeking a Special Permit for a proposed two story addition at the easterly side 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 June 13, 2019. Architectural layouts and elevations for the proposed addition, consisting of sheets 1 thru 8, dated April 10, 2019, prepared by Advantage Visual Design and Construction, Architect, 3 Bowman Road, Billerica, MA 01821, were also submitted with the Petitioner's 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". 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.

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 (5-0-0) to grant a Special Permit in order to construct an addition to the dwelling at 28 Berkley Street 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 Variance and Special Permits 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 ZONNG BOARD OF APPEALS



Damase Caouette, Chair

Zoning Board Members voting on Case # 19-18
Damase Caouette, Erik Hagstrom, John Jarema, Kyle Tornow, Robert Redfern

RZBA Case No. 19-18 28 Berkley Street Spec Perm for Addition: JAJ