

TOWN OF READING
ZONING BOARD OF APPEALS
DECISION ON THE PETITION OF WADE AND LORRAINE WILLWERTH
FOR THE PROPERTY LOCATED AT
26 GREEN STREET, READING, MASSACHUSETTS

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October 16, 2019
Case No. 19-20

The Zoning Board of Appeals (the “Board”) opened and held a public hearing on Wednesday, October 16, 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 Wade and Lorraine Willwerth (The “Petitioners”). The Petitioners sought a Special Permit under Section 7.3.2 of the Zoning By-laws to enclose an existing second story deck on the property located at 26 Green Street in Reading, Massachusetts (the “Property”).

The Property is located in the Business B zoning district of Reading. The existing dwelling is deemed a legal, non-conforming “grandfathered” structure as residences are not legally allowed in the Business B zone per current by-laws. The Petitioners were present at the meeting and were also represented by Attorney O. Bradley Latham. Attorney Latham stated that the Applicants are seeking a Special Permit in order to enclose an existing second story deck at the back of their existing dwelling for additional privacy. A large 55-unit, four story building is currently being constructed immediately behind their home, which will look down onto their property. The Applicants would like to enclose their second story roof deck in order to continue using their deck with some modicum of privacy. The existing dwelling with deck is depicted on a Certified Plot Plan (“the Plot Plan”) prepared by Edward J. Farrell P.L.S., 110 Winn Street, Suite 203, Woburn, MA, dated May 4, 2011 and stamped by Edward J. Farrell MA P,L,S, #34813. Architectural renderings of the proposed enclosure of the second story deck are reflected on Architectural Drawing Nos. 2, 4, & 5 prepared by Phoenix Collaborative Architects, Wakefield, MA and dated September 2, 2019 Rev.

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 discussions with the Petitioners and their Attorney and, comment among Board members, the meeting was opened to public comment and subsequently closed.

A motion was made and seconded by Board Members that the proposed second story deck enclosure 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 alteration 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 26 Green Street as shown on the previously noted Certified Plot Plan and Architectural drawings submitted, with the following conditions attached.

1. 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 any 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 ZONNG BOARD OF APPEALS



Damase Caouette, Chair

Zoning Board Members voting on Case # 19-20
Damase Caouette, Hillary Mateev, John Jarema, Nick Pernice, Robert Redfern