

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

RECEIVED

2010 DEC 30 A 11:40

CITY CLERKS OFFICE
GARDNER, MA

NAME: Abigail Allen
ADDRESS: 47 High Street, Gardner, MA 01440

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:

32 Lennon Street

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS:

BOOK 45751 PAGE 359

ON APPLICATION DATED October 26, 2010 FOR A **Variance** TO:
Change a two (2) family residence to a three (3) family residence at 32 Lennon Street, Gardner, MA. (Denied a building permit by the Building Commissioner because it does not comply with Section 4, Use Regulations, 415 Table of Uses in Single Family Residential I Area of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its December 21, 2010 meeting voted unanimously to grant with conditions a Variance to Abigail Allen to change a two (2) family residence to a three (3) family residence at 32 Lennon Street, Gardner, MA.

The Public Hearing was held on December 21, 2010. At the Public Hearing the Applicant presented to the Board numerous photographs and schematics of the interior and exterior of the building. Historically, there was a third apartment in the building. It is believed that this apartment was added by a previous owner approximately 8-10 years ago. The Applicant purchased the property and during the process of completing improvements, including the construction of emergency egress, the Applicant learned that this third apartment was not granted via Variance and its existence did not comply with the current Zoning Ordinance.

The Applicant represented to the board that there was a central common stairway to all three floors, which the Board believes is typical of houses of this vintage. This type of central stairway typically was constructed in buildings to allow individual apartments. The building was believed to have been constructed in the 1920s.

The pictures of the exterior of the home indicate adequate parking area to meet the necessary 5 spaces required for the five bedrooms proposed. The two existing (first and second floor) apartments each have two bedrooms with the third floor bedroom proposed to have one bedroom.

An abutting neighbor to the left of the property expressed concern over drainage from the property. The abutters property, from the pictures provided is lower in elevation than the subject property. No exterior changes or modifications are proposed to be made with the exception of the construction of the multi-level decks on the rear of the house also serving as emergency egress for each apartment. The Board addresses this concern in its conditions.

Refuse storage containers are to be stored at the rear of the property.

The granting of the Variance does not create or aggravate a safety hazard. The approval to convert the house from a two to three family dwelling will not, in the opinion of the Board, create or aggravate a safety hazard. Adequate room for off-street parking for the buildings vehicles exist at the rear of the property.

The granting of the Variance does derogate from the intent of the Zoning Ordinance in that three family residences are not permitted in this zoning district. The historical use of the building was a three family, and is believed to have been constructed as intended to be a multi-family dwelling with a central stairway.

No hardship exists with regard to shape, topography or soil conditions of the property. The Applicant seeks a use Variance. Minor exterior modifications are taking place to construct secondary egress to the apartments; the existing and proposed. A literal interpretation would be detrimental to the intent of the Ordinance in that the Applicant demonstrated that economic feasibility of a two family versus a three family would permit occupancy and upkeep of the property. The neighborhood is also mixed use in that across the street are four (4) unit multifamily buildings and other single and multifamily homes on that section of Lennon Street.

This Variance is granted with the following conditions:

- Roof drainage gutters to be installed to direct roof runoff from the left (southwest) side and rear of the building and outletting to the right (northeast) side of the house toward the vacant wooded lot. This drainage is not to be discharged so as to have an adverse effect on abutting properties.
- The existing driveway is on the left side of the house with fairly large evergreen shrubs planted between the house and the driveway. These overgrown shrubs, if allowed to continue to grow unheeded will affect vehicular traffic on the driveway and potentially affect the abutter to the left. These shrubs are to be significantly cut back and maintained as such or removed to allow vehicular use of the driveway.

ANY PERSON AGGRIEVED BY A DECISION OF THE BOARD OF APPEALS OR ANY SPECIAL PERMIT/VARIANCE GRANTING AUTHORITY, WHETHER OR NOT PREVIOUSLY A PARTY TO THE PROCEEDING, OR ANY MUNICIPAL OFFICER OR BOARD MAY APPEAL EITHER TO THE SUPERIOR COURT, DISTRICT COURT, OR LAND COURT DEPARTMENT OF THE TRIAL COURT FOR THE COUNTY IN WHICH THE LAND CONCERNED IS SITUATED BY BRINGING AN ACTION WITHIN TWENTY (20) DAYS AFTER THE DECISION HAS BEEN FILED IN THE OFFICE OF THE CITY OR TOWN CLERK. (M.G.L. SECTION 17, CHAPTER 40A)

A COPY OF THIS DECISION HAS THIS DAY BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK, CITY OF GARDNER:

CERTIFIED THIS 30th DAY OF December, 2010

Raymond F. LaFond dk. Randall Heglin dk. Michael Gerry dk.
Raymond F. LaFond, Chairman Randall Heglin, Clerk Michael Gerry, Third Member

I, Alan L. Agnelli, City Clerk, City of Gardner, hereby certify the attached decision by the Zoning Board of Appeals was filed with my office on December 30, 2010 and that twenty days have elapsed since the filing of said decision with my office and that no appeal concerning said decision has been filed or that any appeal that has been filed has been dismissed or denied.

January 20, 2011
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk

