

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

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CITY CLERKS OFFICE
GARDNER, MA

NAME: Steven J. Roy and Lorraine J. Roy
ADDRESS: 354 Betty Spring Road, Gardner, MA 01440

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

354 Betty Spring Road

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

BOOK 13421 PAGE 163

ON APPLICATION DATED January 5, 2011 FOR A **Variance** TO:
Build a two car garage with living quarters above at 354 Betty Spring Road, Gardner, MA. (Denied a building permit by the Building Commissioner because it does not comply with Section 6, 620 Table of Lot, Area, Frontage, Yard, and Height Requirements in Rural Residential II Area of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its March 15, 2011 meeting voted unanimously to grant a Variance to Steven J. & Lorraine J. Roy to build a two car garage with living quarters above at 354 Betty Spring Road, Gardner, MA.

The Public Hearing was held on February 15, 2011. At the Public Hearing, the Applicant represented by Mr. Dymek presented to the Board the intention of the Applicant to construct a garage addition. The proposed addition is to be located on the right hand (south) side of the house. The existing dwelling is 36 feet from the nearest lot line. The addition of the garage with living quarters above would move the closest corner of the structure to be eleven feet from the lot line at the front of the building and fifteen feet at the rear to the side property line, where a 20 foot setback is required by Ordinance. The Applicant indicated that there is no other suitable location for the garage. Placement of the garage addition on the other side of the home would impact the abutter to the north. The location proposed is adjacent to the existing drive under garage and is abutted by property that is currently undeveloped. The Applicant reported to the Board that they contacted the attorney representing the abutting property with the desire to purchase enough property to avoid the necessity of a variance. It was reported that the owner/attorney did not want to subdivide the property at this time.

At the public hearing, the Board inquired about how drainage from the roof was to be handled, especially in close proximity to abutting property. The Board inquired if it was feasible to drain the dwelling to the rear of the property. The Applicant indicated that it was feasible and would drain the addition to the rear.

A site visit was held on February 24, 2011.

The granting of the Variance does not create or aggravate a safety hazard. No additional curb cuts or widening are proposed or required. The use is strictly for the residential use of the property.

The granting of the Variance does derogate from the intent of the Zoning Ordinance in that proposed garage does not meet the setback requirements of the Ordinance. The location of the house on the lot would not permit the construction of this addition on either side of the dwelling without violating the setback requirements. The proposed addition is closest to the abutter to the east which is currently an undeveloped property. The addition on the left hand side of the house would more adversely impact abutting property.

A hardship exists with regard to shape, topography or soil conditions of the property. The lot is on an odd shape and lacks sufficient width to construct the addition without violating the ordinance. An attempt was made to purchase additional property from an abutter to comply with the setback requirements, but was reportedly unsuccessful.

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 17th DAY OF March, 2011

Raymond F. LaFond *Randall W. Heglin* *Michael D. Gerry*
Raymond F. LaFond, Chairman Randall W. Heglin, Clerk Michael D. 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 March 17, 2011 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.

April 7, 2011
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk

