

COMMONWEALTH OF MASSACHUSETTS  
CITY OF GARDNER  
ZONING BOARD OF APPEALS  
DECISION

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CITY CLERK'S OFFICE  
GARDNER MA

NAME: John M. & Linda C. Parker  
ADDRESS: 49 Brookside Drive, Gardner, MA 01440

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:  
49 Brookside Drive, Gardner, MA 01440  
Parcel ID #H37-25-30

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS: Book 51185, Page 289.

ON APPLICATION DATED May 12, 2014 FOR A **Special Permit TO:** Construct a new egress landing with stairs at 49 Brookside Drive, Gardner, MA. Parcel ID H37-25-30. Denied a building permit by the Building Commissioner because it does not comply with Chapter 675, Attachment 2 – Table of Lot, Area, Frontage, Yard and Height Requirements in General Residential 3 zoning district of the Gardner City Code.

The Gardner Zoning Board of Appeals at its July 15, 2014 meeting voted to deny a Special Permit to John M. & Linda C. Parker to construct a new egress landing with stairs at 49 Brookside Drive, Gardner, MA.

The Public Hearing was held on June 17, 2014. A site visit was held on June 21, 2014

The applicant proposed to construct a doorway with stairs on the north side of the house to provide access to the rear of the property. The house is located 12 feet from the property line. The door with stairway was proposed to be 4 feet wide. The Applicant desired to construct the egress to gain easier access to the rear of the property from the first (main) floor. The primary reason the Applicant requested the construction of the new egress was to eliminate the going up and down stairs to bring the dogs outside to the rear of the house, and make it easier as they grow older. There currently exists a walk out basement door. The driveway and entrance to the main floor is on the right or south side of the house.

At the Public Hearing the applicant addressed the specific criteria for a Special Permit as delineated in section 675-1170 of the Code and are as summarized below:

1. The proposed egress is compatible with the General Residential 3 use of the neighborhood. The use is for residential use of the home.
2. The proposed stairs would provide safe use for the resident of the home. As the stairs were to be located within the lot, references to streets etc. are not applicable.
3. The requirement that the proposal provide for adequate off street parking, loading and unloading are not applicable to this application.
4. The requirement that the proposal provide for adequate facilities as they relate to water, sewer, drainage is not applicable to this application.
5. The stairs would not be a nuisance air or water pollution, erosion, flood, odor, dust, etc.
6. The applicant stated that the proposal would not be an inconvenience or hazard to abutters, vehicles or pedestrians. The direct immediate abutter did express a concern at the hearing regarding the proximity of the stairway to the property line.

7. The applicant stated that the egress request was in harmony with the general purpose of the Chapter, although the Board recognizes that by seeking the Special Permit the stairs does violate the setback requirements of the Code.
8. The stairs if constructed would not have a significant impact on City services, tax base or employment opportunities.
9. The proposal should be consistent with the City's Master Plan or Community Development Plan.

By vote of the Board, the Special Permit is denied.

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 \_\_\_\_ DAY OF \_\_\_\_\_

Raymond F. LaFond  
Raymond F. LaFond, Chairman

Randall W. Heglin  
Randall W. Heglin, Clerk

Michael D. Gerry  
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 July 23, 2014 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.

15-August-2014  
Dated

Alan L. Agnelli  
Alan L. Agnelli, City Clerk