



COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

RECEIVED

Corrected

2014 SEP 23 PM 4 00

NAME: Robin A. Pratt
ADDRESS: 47 Pond Street, Gardner MA 01440

CITY CLERK'S OFFICE
GARDNER, MA

DECISION OF THE BOARD OF APPEALS REGARDING THE USE OF THE PREMISES LOCATED ON:
17-19 Walnut Street
Parcel ID #R27-22-10

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS: **Book 11038, Page 80.**

ON APPLICATION DATED July 16, 2014 FOR A SPECIAL PERMIT TO: Construct a new egress landing at 17-19 Walnut Street , Gardner, MA, Parcel ID R27-22-10, located in the General Residential 3 (GR3) zoning district, denied a building permit as it does not comply with Chapter 675, Article 620, Attachment 2 of the City Code of Gardner. The "Table of Lot, Area, Frontage, Yard and Height requirements" states that your requested use requires a rear setback of 20 feet and you propose a 16.5 foot setback.

The Gardner Zoning Board of Appeals at its September 16, 2014 meeting voted unanimously to grant, with a condition, a Special Permit under Section 675-420 to Robin A. Pratt to construct a new egress landing at 17-19 Walnut Street, Gardner, MA.

The Public Hearing was held on August 19, 2014. A site visit was held on August 25, 2014 at which time the Board members viewed the property and the proposed project.

The Applicant owns a multi-family property located at 17-19 Walnut Street. The Applicant must replace the existing fire escape for the third floor apartment to comply with current life-safety code compliant standards. The current fire escape does not meet current standards. To meet current regulations, a window must be converted to a doorway and fixed stairway constructed to provide safe and reliable emergency secondary egress from the apartment. To comply with the code and not impact the egress issues with the apartments below, the applicant proposes to construct a freestanding stairway of pressure treated lumber, meeting all building codes. The design was completed by a structural engineer, licensed by the Commonwealth of Massachusetts. To construct the egress stairway, the structure will be approximately 16.6 feet from the rear property line, at its closest point. It is located to least impact on site parking and other tenants in the building. According to the Building Permit Plan submitted to the Board by the Applicant as prepared by Szoc Surveyors, and dated April 25, 2014, the bulkhead on the existing house is actually closer to the property line than the proposed stairs.

The stairs are proposed to be covered by a roof.

At the Public Hearing, the applicant addressed the specific criteria for a Special Permit as outlined in Section 675-1170 of the City Code and as summarized below:

1. The proposed use is compatible with the General Residential 3 use of the neighborhood. The property is a multi-family dwelling in an area of multi-family dwellings. The proposed project is to bring the property in compliance with life-safety regulations.

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS

DECISION

Corrected

RECEIVED

2014 SEP 23 PM 4 00

CITY CLERK'S OFFICE

GARDNER, MA

NAME: Robin A. Pratt
ADDRESS: 47 Pond Street, Gardner MA 01440

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

17-19 Walnut Street
Parcel ID #R27-22-10

IN THE CITY OF GARDNER, THE PREMISES BEING MORE PARTICULARLY DESCRIBED IN A DEED DULY RECORDED IN WORCESTER DISTRICT REGISTRY OF DEEDS: **Book 11038, Page 80.**

ON APPLICATION DATED July 16, 2014 FOR A **SPECIAL PERMIT** TO: Construct a new egress landing at 17-19 Walnut Street , Gardner, MA, Parcel ID R27-22-10, located in the General Residential 3 (GR3) zoning district, denied a building permit as it does not comply with Chapter 675, Article 620, Attachment 2 of the City Code of Gardner. The "Table of Lot, Area, Frontage, Yard and Height requirements" states that your requested use requires a rear setback of 20 feet and you propose a 16.5 foot setback.

The Gardner Zoning Board of Appeals at its September 16, 2014 meeting voted unanimously to grant, with a condition, a Special Permit under Section 675-420 to Robin A. Pratt to construct a new egress landing at 17-19 Walnut Street, Gardner, MA.

The Public Hearing was held on August 19, 2014. A site visit was held on August 25, 2014 at which time the Board members viewed the property and the proposed project.

The Applicant owns a multi-family property located at 17-19 Walnut Street. The Applicant must replace the existing fire escape for the third floor apartment to comply with current life-safety code compliant standards. The current fire escape does not meet current standards. To meet current regulations, a window must be converted to a doorway and fixed stairway constructed to provide safe and reliable emergency secondary egress from the apartment. To comply with the code and not impact the egress issues with the apartments below, the applicant proposes to construct a freestanding stairway of pressure treated lumber, meeting all building codes. The design was completed by a structural engineer, licensed by the Commonwealth of Massachusetts. To construct the egress stairway, the structure will be approximately 16.6 feet from the rear property line, at its closest point. It is located to least impact on site parking and other tenants in the building. According to the Building Permit Plan submitted to the Board by the Applicant as prepared by Szoc Surveyors, and dated April 25, 2014, the bulkhead on the existing house is actually closer to the property line than the proposed stairs.

The stairs are proposed to be covered by a roof.

At the Public Hearing, the applicant addressed the specific criteria for a Special Permit as outlined in Section 675-1170 of the City Code and as summarized below:

1. The proposed use is compatible with the General Residential 3 use of the neighborhood. The property is a multi-family dwelling in an area of multi-family dwellings. The proposed project is to bring the property in compliance with life-safety regulations.

2. The design of the stairway provides safe movement for users of the stairway for its intended purpose.
3. The stairway egress is for the exclusive use of the residents and guests of the property. Additional parking for loading etc. is not applicable.
4. Adequate facilities for sewerage, refuse, etc. is not applicable. The Board does have a concern with regard to drainage off of the roof of the stairway and as a condition of the granting of this Special Permit addresses this concern.
5. The stairway egress is for the private use of the residents and guests of the property and should not create a nuisance related to air, water pollution, erosion, flood, noise, odor, etc. It is a life safety issue for the residents of the house.
6. The proposal will not be an inconvenience or hazard to abutters, vehicles or pedestrians.
7. The construction of a egress stairway is in harmony with the general purpose of the intent General Residential 3 district zoning
8. The construction of an egress stairway will not have a significant detrimental effect on City Services.
9. The improvement and upgrade of one property in a General Residential 3 should be consistent with the City's Master Plan.

The Special Permit is granted with the following condition.

- Appropriate gutters with downspouts to be installed to catch and direct rainwater from the roof of the stairs to the ground and away so as not to impact abutting property.

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 23 DAY OF September, 2014

Raymond F. LaFond Randall W. Heglin Michael D. Gerry
 Raymond F. LaFond, Chairman (11/27) Randall W. Heglin, Clerk (11/27) Michael D. Gerry, Third Member (11/27)

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 SEPTEMBER 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.

OCTOBER 17, 2014
 Dated

Alan L. Agnelli
 Alan L. Agnelli, City Clerk