

**ORIGINAL**

COMMONWEALTH OF MASSACHUSETTS  
 CITY OF GARDNER  
 ZONING BOARD OF APPEALS  
DECISION

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2010 OCT 28 P 1:49

CITY CLERKS OFFICE  
GARDNER, MA

NAME: C B & B, Inc.  
 ADDRESS: 625 Betty Spring Road, Gardner, MA 01440

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

625 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 23032 PAGE 230

ON APPLICATION DATED August 25, 2010 FOR A **Variance** TO:  
 Demolish the pool house and build a 7,418 square foot addition to the rear of the main building at the Colonial Hotel, 625 Betty Spring Road, Gardner, MA. (Denied a building permit by the Building Commissioner because it does not comply with Section 4, #423 Nonconforming Structures, #423.1 Variance Required, in Industrial II Area, of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its October 19, 2010 meeting voted unanimously to grant with condition a Variance to CB&B, Inc. DBA Colonial Hotel to demolish the pool house and construct a 7,418 square foot addition to the rear of the main building at 625 Betty Spring Road, Gardner, MA.

The Public Hearing was held on September 21, 2010. At the Public Hearing the Applicant presented to the Board plans to demolish the existing pool house at the property and replace with a larger 7,418 square foot addition that would house an indoor pool, gym and spa amenities for the hotel. The proposed addition is to replace the existing steel manufactured building that currently houses the indoor pool. The existing structure is in fair condition and is nearing the end of its useful life.

The Applicant intends to construct the addition in essentially the same location as the existing pool house, albeit larger. The larger facility would include gym and spa facilities as an additional amenity at the hotel. The addition is also proposed to be within the 20 feet setback of the rear property line.

The existing hotel is a nonconforming structure and as the addition proposed is larger than the existing pool house, the addition would increase the nonconformity thereby necessitating the granting of a Variance by the Board.

A site visit was held on October 9, 2010.

The granting of the Variance does not create or aggravate a safety hazard. The construction of an addition is at the rear of the existing building. The property abuts a vacant parcel with significant wetlands and would unlikely be built upon. There exists a sanitary sewer easement at the rear of the property. The work is proposed to be outside the easement. Vehicular access will be through an existing parking lot at the rear of the hotel and pedestrian access through a direct connection with the main hotel building.

The granting of the Variance does derogate from the intent of the Zoning Ordinance in that the existing structure is a nonconforming structure and the construction of a larger addition increases the nonconformance. The Board in its deliberations realized that the amenities such as are proposed are necessary for the business model for a full service hotel. This addition will be at the rear of the property and will not impact any abutters. A literal interpretation of the Ordinance, the Board believes, would be detrimental to the property.

There exists a hardship related to shape, topography or soil conditions of the property. The existing hotel building is located toward the rear of the property to accommodate the necessary parking for hotel guests in the front of the building. The most reasonable location for this addition is where the pool is currently located. To accommodate the size of building necessary, the rear setback relief is necessary. No abutters will be affected by the granting of this variance. Also, the addition is proposed to be outside of the sanitary sewer easement that is at the rear of the property.

This Variance is granted with the following condition:

- Applicant to provide an as built survey of the addition, prepared by a registered land surveyor, noting its location relative to the nearby boundary line and sewer easement. Plan to be provided to Building Commissioner and the office of the City Engineer.

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 28th DAY OF October, 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 October 28, 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.

November 17, 2010  
Dated

Alan L. Agnelli  
Alan L. Agnelli, City Clerk