

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

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CITY CLERK'S OFFICE
GARDNER MA

NAME: Hector L. Rosario and Hilda Rosario
ADDRESS: 51 Windsor Lane, East Longmeadow, MA 01028

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

27 Regan Street

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

BOOK 51465 PAGE 232

ON APPLICATION DATED October 28, 2013 FOR A **Variance**

To construct a second means of egress stairs at 27 Regan Street, Gardner, MA (Parcel ID #M22-4-33). Denied a building permit by the Building Commissioner because it does not comply with Section 6 Density and Dimensional Regulations 620 Table of Lot, Area, Frontage, Yard, and Height Requirements in General Residential 3 zoning district of the Gardner Zoning Ordinance.

The Gardner Zoning Board of Appeals at its November 19, 2013 meeting voted unanimously to grant a Variance to Hector and Hilda Rosario to construct a secondary means of egress at 27 Regan Street.

The Public Hearing was held on November 19, 2013.

The Applicant proposes to construct a rear stairway at the 27 Regan Street property to be used as a secondary means of egress. The building in question is a three story structure that has historically been used as a three family residence.

The granting of the Variance for the construction of a set of stairs for secondary egress does not create or aggravate a safety hazard. The Board in its decision believes that a safety hazard has been eliminated as the new egress will meet Code and provide an exit for the tenants in case of fire or other event. The construction of the stairs in way interferes with any pedestrian or vehicular traffic. The stairs will be located to the rear of the property away from any roadway or sidewalks.

The granting of the Variance for does derogate from the intent of the Zoning Ordinance as it does not meet the required set back requirements. There are no locations on the property that would allow for the construction of a set of stairs meeting the setback requirements.

A hardship due to shape, topography or soil conditions of the property exists in the decision of the Board due to the size of the lot. The Board recognizes that this lot existed prior to the adoption of the Zoning Ordinance. The neighborhood consists primarily of multi-family homes all situated on very small lots. Most if not all do not comply with current zoning setback requirements. A literal enforcement of this section of the Ordinance would impose a hardship upon the Applicant in that the lot offers no possible

locations for stairs that would meet the set back requirement. No other options exist for the Applicant to acquire additional space to allow for compliance. This is a densely settled neighborhood.

The Variance is unanimously granted with one condition. The applicants must submit plans for the stairway egress to the Building Commission for approval prior to the start of construction.

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 26th DAY OF November, 2013

Raymond F. LaFond *dk* Michael D. Gerry *dk* Anthony J. Asmar *dk*
Raymond F. LaFond, Chairman Michael D. Gerry, Acting Clerk Anthony J. Asmar, 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 NOVEMBER 26, 2013 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.

DECEMBER 17, 2013
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk