

FILE COPY

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS
DECISION

RECEIVED

2014 JAN 29 PM 12 39

NAME: Donald R. LaPrise
ADDRESS: 42 James Street, Gardner, MA 01440

CITY CLERK'S OFFICE
GARDNER MA

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

42 James Street

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

BOOK 48008 PAGE 346

ON APPLICATION DATED November 21, 2013 FOR A **Variance** TO:
Construct a detached 14 foot by 20 foot garage at 42 James Street, Gardner, MA (Parcel ID R27-13-8), owned by Alyx E. LaPrise, 495 New Sherborn Road, Athol, MA . (Denied a Building Permit by the Building Commissioner because it does not comply with Section 6, Table 620 Table of Lot, Area, Frontage, Yard, and Height Requirements in Single Family I zoning district of the Gardner Zoning Ordinance.)

The Gardner Zoning Board of Appeals at its January 21, 2014 meeting voted unanimously to grant with condition a Variance to Donald R. LaPrise to construct a 14'x20' detached garage at 42 James Street, Gardner, MA.

The Public Hearing held on January 21, 2014. The Owner of the property through explanation at the hearing and through submittals adequately explained the proposed project. The Board being familiar with the area combined with the information provided and presentation made before the Board, determined that a site visit was not necessary and moved immediately to a decision on the application.

The Applicant proposes to construct a single stall garage (14'x20') in the area of an existing driveway. Currently, there is no garage for the property. From the survey plan prepared by Szoc Surveyors and provided to the Board, the garage as proposed would be approximately 10.9 feet, whereas the Ordinance requires a side setback of 15 feet, and a set back from the streetline or front set back of approximately 6.3 feet, whereas the Ordinance requires a 30 foot front setback. The Applicant seeks relief of the front and side setback requirements of the Ordinance. The edge of pavement, from the same survey, is approximately 10 feet from the actual streetline or property line.

The granting of the Variance does not create or aggravate a safety hazard. The garage is being constructed over an existing driveway. No additional parking spaces are being created. The road is a residential dead end and sees only local traffic. It is not envisioned that the roadway will

ever have to be widened to its full layout width. The garage is set far enough back from the edge of the road for visibility for cars exiting the garage.

The granting of this Variance does derogate from the intent of the Zoning Ordinance in that the garage does not meet the current setback requirements of the Ordinance. The lot and house on the property existed prior to adoption of the Ordinance. The topography of the lot also is such that it would be a significant hardship to locate the garage such that it would meet the requirements of the Ordinance. Significant amounts of fill, site excavation and the possible construction of a retaining wall would be required.

In the issuance of this Variance, a hardship related to shape, topography or soil conditions of the property is applicable in this case. The lot is located on a steeply sloped hill. Locating the garage to meet the requirements of the Ordinance would create a financial hardship to the Applicant.

This Variance is granted subject to the following condition:

- Roof drainage from the garage to be directed to the rear of the property and not toward the street.

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 29th DAY OF January, 2014

Raymond F. LaFond *dk* Randall W. Heglin *dk* Michael D. Gerry *dk*
 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 January 29, 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.

February 19, 2014
Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk