

COMMONWEALTH OF MASSACHUSETTS
CITY OF GARDNER
ZONING BOARD OF APPEALS

RECEIVED

DECISION

2012 AUG 23 PM 12 44

CITY CLERK'S OFFICE
GARDNER MA

NAME: Colleen M. Maillet
ADDRESS: 81 Peabody Street, Gardner, MA 01440

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

81 Peabody Street

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

BOOK 13461 PAGE 155

ON APPLICATION DATED July 5, 2012 FOR A **Variance** TO:
Construct a screen porch/pool shed at 81 Peabody Street (Parcel ID R22/6/44), Gardner, MA. (Denied a Building Permit by the Building Commissioner because it does not comply with Section 6, 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 August 21, 2012 meeting voted unanimously to grant with condition a Variance to Colleen A. Maillet to construct a screen porch/pool shed at 81 Peabody Street.

The Applicant seeks a Variance from the provisions of Section 6, of the City of Gardner Zoning Ordinance which sets the Density and Dimensional Regulations. The Applicant seeks a Variance to:

Construct a vertical addition on existing 11'x27' deck as an additional amenity around an existing inground pool. Approximately half of the existing deck is proposed to be a screened in deck, with the other half being an enclosed shed. The exterior walls of the shed are proposed to be T-111 siding, painted or stained complimentary to the house. The roof is to be a shed style roof slanting toward the Peabody Street side of the property. The most used entrance to the multi-family house is off of Favor Street. There exists sidewalk and stair access from Peabody Street. A significant change in elevation exists between the proposed shed/porch and Peabody Street. The work is enclosed within an existing chain link fence with privacy slats.

A Public Hearing was held on this application on August 21, 2012.

The proposed work encroaches upon the front setback from Peabody Street. The property is on the corner of Peabody and Favor Streets.

The granting of a Variance for construction of a porch/shed would not create or aggravate a safety hazard. The proposal is for the private use of the Applicant as an additional amenity to the existing inground pool. The proposal is to be constructed on an existing deck.

The granting of the Variance would derogate from the intent of the Zoning Ordinance. The porch/shed does not meet the setback requirements of the Ordinance. Considering Peabody Street as the front setback given the topography that exists between the roadway and the proposed work would be an unreasonable interpretation of the Ordinance. The work is enclosed within existing fenced in area. The work is not readily noticeable from Peabody Street.

A hardship exists due to shape, topography or soil conditions of the property. There exists an existing deck that is being incorporated into the work. The work sits atop a significant slope between the improvement and the street level.

A Variance to construct a porch/shed on an existing deck is granted with the following condition:

- Porch/Shed to not be greater than existing footprint of deck.

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 23rd DAY OF August, 2012

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 August 23, 2012 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.

September 13, 2012

Dated

Alan L. Agnelli
Alan L. Agnelli, City Clerk