

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

2015 JUN 24 PM 2: 55
AMHERST TOWN CLERK

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2015-00032, to demolish and reconstruct, alter, and enlarge a pre-existing non-conforming garage, under Section 9.22 of the Zoning Bylaw, at 1081 South East Street (Map 20D, Parcel 32, R-O Zoning District), subject to the following conditions:

1. The proposed new detached structure shall be located, and the site improvements completed substantially in accordance with the Certified Plot Plan, prepared by Berkshire Design Group, dated April 2, 2015.
2. The interior of the structure shall be used and constructed in accordance with the first and second floor plans, prepared by Kuhn Riddle Architects, dated March 26, 2015. The structure shall not be used as a dwelling unit/apartment without the requisite Special Permit.
3. The exterior of the structure, including height, window locations, architectural features, etc., shall be designed substantially in accordance with the Exterior Elevations prepared by Kuhn Riddle Architects, dated November 21, 2015. As described, the siding of the structure shall be wood clapboard painted beige. Any substantial changes to the design, color, or other features shall be reviewed and approved by the ZBA at a public meeting.
4. All exterior lighting shall be designed or arranged to be downcast.

Eric Beal 
Eric Beal, Chair
Amherst Zoning Board of Appeals

June 24, 2015
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: William and Janet Gorth, 1081 South East Street, Amherst, MA 01002

Date application filed with the Town Clerk: April 14, 2015

Nature of request: For a Special Permit to demolish and reconstruct, alter, and enlarge a pre-existing non-conforming garage, under Section 9.22 of the Zoning Bylaw

Address: 1081 South East Street (Map 20D, Parcel 32, R-O Zoning District)

Legal notice: Published on April 15, 2015 and April 22 30, 2015 in the Daily Hampshire Gazette and sent to abutters on April 15, 2015

Board members: Eric Beal, Tom Ehrgood, Mark Parent

Staff members: Jeff Bagg, Senior Planner, Rob Morra, Building Commissioner

Submissions:

- Application form filed with the Town Clerk on April 14, 2015
- Project Description
- Proposed Section 10.38 findings, dated March 25, 2015
- Management Plan
- Summary of existing and proposed garage structures
- ZBA FY1971-55
- Town GIS context map
- Site Plan, prepared by Kuhn Riddle Architects, dated November 21, 2014
- First & Second Floor Plans (sheet A1.1), prepared by Kuhn Riddle Architects, dated March 26, 2015
- Exterior Elevations, dated November 21, 2014
- Certified Plot Plan, prepared by Berkshire Design Group, dated April 2, 2015
- Rendering view from South East Street

Site Visit: April 29, 2015

Tom Ehrgood and Mark Parent met the architect, John Kuhn, at the site (Eric Beal viewed the site separately). The Board observed the location of the property on the west side of South East Street, and the following:

- The property containing a historic single family dwelling and existing, one story detached barn/garage.
- The location of the existing detached barn and approximate location of property lines, including the non-conforming setbacks at the rear and north side of property.
- The location of the adjacent vacant lot was observed and appeared based on the nature of the open and mature landscaping appeared to be part of the subject property. The approximate location of the required 25 foot setback was observed and noted that nearly the entire existing structure was non-conforming and within the setback.

Public Hearing: April 30, 2015

The architect, Chris Farley, of Kuhn Riddle Architects represented the owners and summarized the project in terms of the submitted plans, as follows:

- The owners would like to demolish the existing one story garage structure which functions as a garage, storage shed and study/guest room building. The oldest portion of the structure dates back to 1790 or earlier and is in poor condition. The portion to the south was constructed as an addition in 1972. This portion was granted a Special Permit for the expansion and use of the building as a study and guest quarters.
- The proposed new building will be a two story garage with interior parking for up to four vehicles, general storage for property maintenance equipment and a second floor containing a personal study bathroom and a storage area for miscellaneous residential items. The second floor will not be used as an apartment and the owner is aware that a Special Permit would be required to use the space as a dwelling unit.
- The design of the building will contain architectural details to enable it to blend with the historic character of the house. It will be sided with wood siding to be painted gray with gray trim. The exterior lighting will be for the garage doors and entrances and will be designed or oriented to be downcast.
- The summary of dimensions shows that the proposed structure will be less-non-conforming in that currently 100% of the structure is within the required 25 foot setback whereas 50% of the proposed structure will be in the required setback.
- The layout of the building on the property is important to the owners. In its proposed location it will provide a more useful and open side yard between the new building and the house and will enable them to maintain the view from the main house out to the vacant lot to the west.

The Board discussed the summary of dimensions, Certified Plot Plan, and the non-conforming nature of the structure. The following was identified:

- The existing structure is setback 0 feet from the rear property line. The new structure would be setback 5 feet 10 inches.
- The existing structure is 9 feet 5 inches from the north property line. The new structure would be setback 17 feet 9 inches.
- The existing structure is 12 feet in height (measured to the mid-point of the roof). The new structure will be 19 feet at the midpoint of the roof.
- The existing structure is 1,420 square feet. The new structure will be 1,465 square feet.
- The adjacent property to the north contains an existing detached garage of a similar size as the proposed structure and similarly situated at or extremely close to the rear property line.

The Board determined that increasing the height of the building within the setback will increase the non-conformity and the relocation of the building makes it less non-conforming.

The Board finds under Section 9.22, the following:

9.22 - The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. The Board found

that the demolition and reconstruction of the detached garage is not substantially more detrimental to the neighborhood for the following reasons:

- The location of the new structure will be less non-conforming than the existing.
- The new structure will be of a similar size and height as the detached garage structure on the property to the north making it compatible with other properties in the vicinity.
- The design of the structure will include architectural features and materials that are compatible with the existing house and other structures in the vicinity.
- The increase in height is off-set by the movement of the structure away from the property line. Additionally, the property to the north contains an existing detached garage of similar size and which is similarly situated at or close to the property line.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.

The proposal maintains the same use of the structure as a garage, study, and storage which is consistent with accessory structures in the neighborhood and the Town as a whole. The proposed structure is similar in square footage, and is consistent in size, look, and feel with other accessory structures on the surrounding properties.

10.382, 10.383 & 10.385 - The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features. The proposal is less non-conforming than the existing structure as to setbacks and is setback approximately 85 feet from the street. The use as a garage, study and storage is consistent with the existing uses and accessory structures in the vicinity.

10.384 and 10.389 - Adequate and appropriate facilities would be provided for the proper operation of the proposed use; The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water. The proposal provides a Management Plan to adequately provide for waste removal, lawn care, and snow removal.

10.393 - The proposal provides protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and exterior lighting, through use of cut-off luminaires, light shields, lowered height of light poles, screening, or similar solutions. The proposed exterior lights will be designed or arranged to be downcast.

10.395 - The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity which have functional or visual relationship thereto. The proposal results a new structure that will be less non-conforming than the existing.

The new structure will be of a similar size and height as the detached garage structure on the property to the north making it compatible with other properties in the vicinity. The design of the structure will include architectural features and materials that are compatible with the existing house and other structures in the vicinity. The increase in height is off-set by the movement of the structure away from the property line. Additionally, the property to the north contains an existing detached garage of similar size and which is similarly situated at or close to the property line.

10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The proposal provides for an appropriate use of the property as an owner occupied single family dwelling with a detached accessory structure containing a garage, study, and storage which is normal and expected in the neighborhood.

Zoning Board Decision

Mr. Beal MOVED to approve the application with conditions. Mr. Ehrgood seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2015-00032, to demolish and reconstruct, alter, and enlarge a pre-existing non-conforming garage, under Section 9.22 of the Zoning Bylaw, at 1081 South East Street (Map 20D, Parcel 32, R-O Zoning District), subject conditions.

<u>Eric Beal</u> ERIC BEAL	<u>Tom Ehrgood</u> TOM EHRCOOD	<u>Mark Parent</u> MARK PARENT
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FILED THIS 24th day of June, 2015 at 2:56 p.m.,
 in the office of the Amherst Town Clerk Vandrea G. Burger
 TWENTY-DAY APPEAL period expires, July 14, 2015.
 NOTICE OF DECISION mailed this 25 day of June, 2015
 to the attached list of addresses by Jeffrey R. Byng, for the Board.
 CERTIFICATE OF NO APPEAL issued this _____ day of _____, 2015.
 NOTICE OF PERMIT or Variance filed this _____ day of _____, 2015,
 in the Hampshire County Registry of Deeds.

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To William and Janet Gorth
Address 1081 South East Street
City or Town Amherst, MA 01002

Identify Land Affected: 1081 South East Street
(Map 20D, Parcel 32, R-O Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner with respect to the use of the premises on

1081 South East Street Amherst
Street City or Town

The record of title standing in the name of
William & Janet Gorth
Name of Owner

Whose address is 1081 South East St. Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 2232 Page 231
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2015-00032
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Eric Beal Chairman
(Board of Appeals) 
Mark Parent Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____
Register of Deeds
Notice to be recorded by Land Owner

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of William and Janet Gorth

For a Special Permit to demolish and reconstruct, alter, and enlarge a pre-existing non-conforming garage, under Section 9.22 of the Zoning Bylaw

On the premises of 1081 South East Street
At or on Map 20D, Parcel 32, R-O Zoning District

NOTICE of hearing as follows mailed (date) April 15, 2015
to attached list of addresses and published in the Daily Hampshire Gazette
dated April 15, 2015, April 22, 2015 and April 30, 2015

Hearing date and place April 30, 2015 (Town Hall)

LEGAL NOTICE

The Amherst Zoning Board of Appeals will meet on Thursday, April 30, 2015, at 6:30 P.M. in the Town Room, Town Hall, to conduct the following business:

PUBLIC HEARINGS:

ZBA FY2015-00031 - 2B Amity, LLC d/b/a Vespa - For a Special Permit to establish a Class II Restaurant, with accessory outdoor dining and live or pre-recorded entertainment, under Section 3.352.1, 5.041, and 5.042, at 28 Amity Street, Unit 1G (Map 14A, Parcel 1G-254, R-O Zoning District)

ZBA FY2015-00032 - William and Janet Gorth - For a Special Permit to demolish and reconstruct, alter, and enlarge a pre-existing non-conforming garage, under Section 9.22 of the Zoning Bylaw, at 1081 South East Street (Map 20D, Parcel 32, R-O Zoning District)

ZBA FY2015-00034 - Lazaro Omar Cruz - For a Special Permit to continue the use of a two bedroom apartment, as a Converted Dwelling, as authorized by ZBA FY1998-0016, under Section 3.3241 of the Zoning Bylaw (Map 6C, Parcel 273, R-N Zoning District)

ZBA FY2015-00035 - Amherst Colonial Village - For a Special Permit to temporarily store and stockpile approximately 4,000 cubic yards of soil on the portion of property adjacent to South East Street, under Section 5.10 of the Zoning Bylaw, at 200 South East Street (Map 15C, Parcel 10, R-N Zoning District)

ERIC BEAL, CHAIR
AMHERST ZONING BOARD
OF APPEALS
April 14, 22
3025557

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2015-00032, to demolish and reconstruct, alter, and enlarge a pre-existing non-conforming garage, under Section 9.22 of the Zoning Bylaw, at 1081 South East Street (Map 20D, Parcel 32, R-O Zoning District), subject conditions.

Mark Parent - Yes Eric Beal - Yes Tom Ehrgood - Yes

DECISION: APPROVED with conditions

Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/Zip
20D-77	MIDDLE ST	GORTH, WILLIAM P & JANET I		1081 SOUTH EAST ST	AMHERST, MA 01002
20D-12	15 MIDDLE ST	TRUSTEES OF HAMPSHIRE COLLEGE		893 WEST ST	AMHERST, MA 01002
20D-31	26 MIDDLE ST	ELY, LAURENCE D III	ELY, TAMSON MYERS	26 MIDDLE ST	AMHERST, MA 01002
20D-64	31 MIDDLE ST	WARNER, STANLEY L & SIGNIA R		31 MIDDLE ST	AMHERST, MA 01002
23B-1	51 MIDDLE ST	MANNING, WILLIAM J	MANNING, ARLENE A	51 MIDDLE ST	AMHERST, MA 01002
23B-4	54 MIDDLE ST	MILTZ, ROBERT J	ABRAMS, LINDA R	54 MIDDLE ST	AMHERST, MA 01002
23B-7	SOUTH EAST ST	TOWN OF AMHERST CONSERV COMM		TOWN HALL	AMHERST, MA 01002
23B-78	SOUTH EAST ST	TOWN OF AMHERST CONSERV COMM		TOWN HALL	AMHERST, MA 01002
20D-49	1046 SOUTH EAST ST	TOWN OF AMHERST MUNSON MEM LIB		TOWN HALL	AMHERST, MA 01002
20D-30	1055 SOUTH EAST ST	CARTY, SHARON S		1055 SOUTH EAST ST	Amherst, MA 01002
20D-42	1066 SOUTH EAST ST	SOUTH CONGREGATIONAL CHURCH IN	ATTN: TREASURER	1066 SOUTH EAST ST	AMHERST, MA 01002
20D-69	1067 SOUTH EAST ST	SOUTH CONGREGATIONAL CHURCH	ATTN: TREASURER	1066 SOUTH EAST ST	AMHERST, MA 01002
20D-33	1072 SOUTH EAST ST	BRONGERS, JANET A		1072 SOUTH EAST ST	AMHERST, MA 01002
20D-32	1081 SOUTH EAST ST	GORTH, WILLIAM P & JANET		1081 SOUTH EAST ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
23B-66	1100 SOUTH EAST ST	GORMAN, ENID & PAUL T		1100 SOUTH EAST ST	AMHERST, MA 01002
23B-5	1101 SOUTH EAST ST	STOREY, ALBERT J	STOREY, REBECCA P	1101 SOUTH EAST ST	AMHERST, MA 01002
23B-67	1110 SOUTH EAST ST	OXMAN, KATJA P TRUSTEE		1110 SOUTH EAST ST	Amherst, MA 01002