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TOWN OF ACTON
PLANNING DEPARTMENT



BOARD OF APPEALS

Special Permit #19-06, Amendment #2

**DECISION TO GRANT A SPECIAL PERMIT AMENDMENT
WITH RESPECT TO
12 ORCHARD DRIVE, ACTON MA**

A public meeting of the Acton Zoning Board of Appeals was held on Tuesday, January 4, 2022 at 7:01pm on the petition of Patricia Agsten-Wildes & Ryan Wildes for a Special Permit Amendment under Section 8.1.5 of the Acton Zoning Bylaw to allow for an additional 73 square feet of construction on a non-conforming lot. The property is located at 12 Orchard Drive, Map-Parcel D2-183, in residential zoning district R-2.

Board of Appeals members present at the meeting included: Ken Kozik, Chairman, Adam Hoffman, Member, R. Scott Robb, Member; Kristen Guichard, Planning Director and Zoning Enforcement Officer, was in attendance as well as the Applicants.

The Applicants were granted a special permit by the Zoning Board of Appeals on May 6, 2019 (ZBA 19-06) to raze the existing dwelling with a Net Floor Area of 2,150 square feet and reconstruct a new 3,522 square foot dwelling with the proposed Floor Area Ratio of .15. Due to the COVID-19 pandemic, the Applicants requested and were granted an Amendment (Amendment #1) to build a smaller dwelling with a proposed Net Floor Area of 3,108 feet. The proposed Floor Area Ratio came in at a FAR of 0.13. All numbers were verified by existing and proposed floor plans.

Mr. Kozik started the discussion at 7:52PM, viewed the contents of the file, and explained how the Board procedurally operates.

The Applicants explained that they had been granted a Special Permit by the Zoning Board of Appeals in 2019 to raze an existing single-story dwelling and construct a new, two-story dwelling with attached garage on a non-conforming lot at 12 Orchard Drive. Unforeseen circumstances such as the COVID-19 pandemic led the Applicants to rethink their plans and submit a petition for a Special Permit Amendment (#1) to construct a smaller dwelling than what was originally granted. Amendment Request #1 was granted by the Board.

Special Permit #19-06, Amendment #2, 12 Orchard Drive

The Applicants further explained they are now requesting a minor Amendment (#2) to increase the size of the new construction by a total of 73 square feet. The Board approved a depth of 26 feet 5 inches, but their modular home supplier's standard module widths are 27 feet 2 inches.

The Applicants stated that no other changes are being requested, and that the new construction complies with all setback requirements and maximum height requirements for the R-2 Zoning District.

The board reviewed the updated architectural drawings and supporting documents submitted by the Applicants.

There were no additional comments or objections to the proposed new construction.

After Board discussion (deliberation), Mr. Hoffman moved and Mr. Robb seconded to grant the Special Permit Amendment (#2), with conditions that the project be built substantially as presented at the meeting. The motion carried unanimously (3-0).

The Board of Appeals, after considering the materials submitted with the Petition, together with the information developed at the meeting, finds that:

1. The Petitioner seeks a Special Permit Amendment (#2) under Sections 8.1.5 of the Acton Zoning Bylaw to allow for an additional 73 square feet for a proposed new, two-story dwelling with attached garage. A prior Amendment (#1) was already granted by the Zoning Board of Appeals to reduce the size of the proposed construction. An error in the module home manufacturer's original proposal is resulting in a proposed total increase of 73 square feet. The property is located at 12 Orchard Drive, Acton, MA, Map/Parcel Map-Parcel D2-183.
2. The proposed two-story dwelling and attached garage are not more detrimental to the neighborhood.
3. The proposed two-story dwelling and attached garage meet the mandatory findings of section 10.3 of the Zoning Bylaw.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously (3-0) to **Grant** the Special Permit Amendment (#2) with the following Conditions:

- Be built substantially as shown in the plans, received by the Planning Division on December 3, 2021, and on file for the January 4, 2022 ZBA meeting.
- The Original Decision, including all their waivers, required plan modifications, and conditions are incorporated by reference and expressly restated herein as requirements of this Amendment Decision. Except as modified herein, the Original Decision, the Plan approved thereunder shall remain in full force and effect.

TOWN OF ACTON ZONING BOARD OF APPEALS

Kenneth F. Kozik, Chairman

Adam Hoffman

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Adam Hoffman
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R. Scott Robb

Special Permit #19-06, Amendment #2, 12 Orchard Drive

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Kenneth F. Kozik

Kenneth F. Kozik, Chairman

Adam Hoffman

R. Scott Robb