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ACTON, MA

Hearing #22-02

BOARD OF APPEALS

**DECISION ON PETITION TO GRANT
A SPECIAL PERMIT
WITH RESPECT TO
767 MAIN STREET**

A public hearing of the Acton Board of Appeals was held via video conference on Tuesday, May 3, 2022, at 7:30 PM, on the petition of Jitenda Kulkarni for a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw for a construction of an addition onto a single-family dwelling on a non-conforming lot.

The subject property is located in Residence 2 (R-2) Zoning District, in which the minimum Lot Areas is 20,000 square feet. The subject parcel has an area of 19,981 square feet, which lies the nonconformity. The proposed project is for the construction of an addition to the existing dwelling. The proposed addition will add 1,243 square feet Gross Floor Area (GFA) to the existing 2,606 square foot structure, representing a GFA increase of 47.7%.

The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Sections 8.1.5. The proposed addition meets setbacks requirements and maximum height as required under Zoning Bylaw for the R-2 Zoning District.

Zoning Bylaw Section 8.1.4 allows for extensions or alterations by-right if they do not increase the overall structure by more than 15% of the existing Gross Floor Area. The existing Gross Floor Area of the dwelling is 2,606 square feet. The proposed Gross Floor Area is 3,849 square feet, which is a 47.7% increase. Therefore, the proposed expansion requires a special permit under Section 8.1.5.

The property is located at 767 Main Street, Map/Parcel C5, 100-1, in a residential R-2 zoning district. The lot area is 19,981 square feet which is non-conforming. The existing structure is a 3-bedroom, 2-bathroom structure with a Gross Floor Area of 2,606 square feet. The proposed additions are adding a two-car garage, adding a deck, finishing the basement and reconfiguring some of the existing rooms in the initial structure. The additions are not raising the existing elevation of the current structure, only extending the width.

The application was distributed for departmental review and comments on March 10, 2022.

The Planning Division submitted comments stating no objection to the granting the requested special permit.

The Conservation Department did not provide any written comments.

The Engineering Department did not provide any written comments.

The Fire Department did not provide any written comments.

The Land Use Department-Health Division submitted a memorandum stating that they permit the proposed changes and alteration as long as the property remains a 3 bedroom house construction and meets all the setback requirements.

The Water Department submitted an email with the following comments: property has a private well and is not connected to the town's water system.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member and R. Scott Robb, Member. Staff present included Kaila Sauer, Assistant Planner and Alicia Burak, Administrative Assistant. The applicant Jitendra Kulkarni, and Paul Kirchner from Stamski and McNary, Inc. were present on behalf of the application

Applicable Bylaws:

8.1.4 Extensions, alterations or changes of Single- and Two Family Dwellings on Nonconforming Lots-One or more extension, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require a special permit under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15 percent of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that the LOT became nonconforming, whichever is later.

8.1.5 In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a Single- or Two-Family residential STRUCTURE on a nonconforming LOT, including the reconstruction anywhere on the lot of a larger structure than otherwise allowed under Section 8.1.3, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.

10.3.5 Mandatory Findings by Special Permit Granting Authority – Except for a Site Plan Special Permit, the Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed USE:

10.3.5.1 is consistent with the Master Plan.

10.3.5.2 Is in harmony with the purpose and intent of this Bylaw.

10.3.5.3 Will not be detrimental or injurious to the neighborhood in which it is to take place.

10.3.5.4 is appropriate for the site in question.

10.3.5.5 Complies with all applicable requirements of this Bylaw.

Mr. Kozik opened the hearing and explained how the Board procedurally operates. Mr. Kozik then asked the petitioner to begin.

The applicant's engineer, Paul Kirchner, described his client's current dwelling which is 3-bedroom, 2-bathroom dwelling. The applicant wants to expand the dwelling by adding a two-car garage, finish the basement, add a deck and reconfigure some of the rooms such as expanding one of the three bedrooms. Mr. Kirchner explained that the dwelling would not increase in height, but expand the width. The proposed Gross floor Area is 3,849 square feet, which is a 47.7% increase. The applicant presented that the new construction to be within an acceptable range of nearby homes in the neighborhood. Finally, the applicant presented pictures of the existing dwelling and architectural drawings of the proposed construction in order to demonstrate that it was in harmony with the neighborhood

Mr. Kozik expressed concerned that with the proposed additions that the increase in Gross Floor Areas would make the house significantly larger compared to the square footage of other houses on the street and in the neighborhood as it would not be consistent. Mr. Kirchner reviewed the schedule that was developed of the square footage of the other houses on the street. He explained that the proposed changes would not make it the largest house in square footage, even though that the proposed size made it one of the bigger houses on the neighborhood based on the schedule. Secondly, Mr. Kirchner explained that 1,700 increase of the square footage was for the basement which skewed the calculations of total square footage. Mr. Robb asked to review the photographs of the neighborhood houses to determine if the proposed changes would be consistent to the size of similar houses.

Mr. Hoffman inquired as to why the applicant was planning on converting one of the altered rooms into a 4th bedroom. The applicant assured the Board that there was no intentions of converting the house into 4 Bedrooms with the increase square footage.

With no further input, Mr. Hoffman made a motion to close the public hearing. Mr. Robb seconded the motion. The Board unanimously voted to close the hearing.

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

1. Applicant seeks a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to construct an addition to an existing one family dwelling which involves building a two-car garage, finish a basement, add outside deck, reconfigure several rooms and expand the master bedroom. The proposed construction meets rear, side yard setbacks, and maximum height as required under the Zoning Bylaw for the R-2Zoning District. The

Floor Area Ratio limit is 47.7%. The property is located at 767 Main Street, Map C5, Parcel 100-1, in a residential R-2 zoning district.

2. Under Acton Zoning Bylaw 8.1.5, Applicants' proposed construction will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.
3. Under Acton Zoning Bylaw 10.3.5.1, Applicants' proposed construction is consistent with the Master Plan.
4. Under Acton Zoning Bylaw 10.3.5.2, Applicants' proposed construction is in harmony with the purpose and intent of the Acton Zoning Bylaw as the proposed addition complies with the dimensional requirements of the zoning district in regards to lot line setbacks.
5. Under Acton Zoning Bylaw 10.3.5.3, Applicant's proposed construction will not be detrimental or injurious to the neighborhood in which it is to take place. The single-family dwelling will remain the same and proposed Gross Floor Area is consistent to the Gross Floor Area of other surrounding properties.
6. Under Acton Zoning Bylaw 10.3.5.4, Applicant's proposed construction is appropriate for the site in question.
7. Under Acton Zoning Bylaw 10.3.5.5, Applicant's proposed construction complies with all applicable requirements of this Bylaw.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **APPROVE** the **SPECIAL PERMIT** with the following conditions:

1. The proposed construction shall be completed as substantially presented during the May 3, 2022 meeting.
2. Alternate Front Elevation 01 will be the architectural elevation used.

Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within 20 days after this decision is filed with the Acton Town Clerk.

TOWN OF ACTON BOARD OF APPEALS

Kenneth F. Kozik
Chairman

Adam Hoffman
Member


R. Scott Robb
Member

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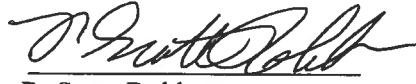
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Kenneth F. Kozik
Chairman

DocuSigned by:

Adam Hoffman
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Adam Hoffman
Member


R. Scott Robb
Member