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PLANNING DEPARTMENT



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BOARD OF APPEALS

Hearing #23-08

**DECISION ON PETITION TO GRANT
A SPECIAL PERMIT
WITH RESPECT TO
135 HIGH STREET**

A public hearing of the Acton Board of Appeals was held on Tuesday, February 6, 2024, at 8:27, (archived video start point 00:57:50) on the petition of Molly Kravitz and Will Gilson for a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to allow for an addition to an existing single-family residential dwelling located on a non-conforming lot.

The property is located at 135 High Street, Map/Parcel I3-71, in a Residential (R-4) and Groundwater Protection District (Zone 4).

The subject property is classified as a non-conforming lot due to insufficient frontage. The required frontage for the R-4 Zoning District is 175 feet. The lot has 150.3 feet of frontage. The existing structure and proposed additions comply with the rear and front yard setbacks; however, the left side of the existing structure is 18.8 feet from the property line and therefore does not comply with the 20-foot minimum side yard setback in the R-4 zoning district. The proposed addition does not increase this nonconformity. The existing structure's right-side setback is 45.5 feet, and the proposed structure's side setback is 22.7 feet.

The Gross Floor Area of the existing dwelling is 3,043sq. ft. Zoning Bylaw Section 8.1.4 allows for extensions or alterations by-right if they do not increase the overall size of the structure by more than 15% of the existing Gross Floor Area, or 694 sq. ft. in this case. The proposed new addition would add an additional 694 sq. ft., which represents a 22.9% increase to the existing dwelling. Therefore, the proposed expansion requires a special permit under Section 8.1.5.

The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Sections 8.1.5 and 10.3.5.

The Health Division submitted a written document noting the existing dwelling is on Town Sewer, and they have no other concerns.

No additional divisional/departmental written comments were submitted.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, and David Schena, Alternate Member. Staff present included Kristen Guichard, Planning Director, Nora Masler, Planner, and Alicia Burak, Administrative Assistant. The applicants were represented by Myra Cabaret of JTA Architects.

Applicable Bylaws:

8.1.4 Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots – One or more extensions, 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 special permits 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 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 petitioners to begin.

Ms. Cabaret asked for release of the 22% area due to the non-conforming lot. The lot currently has 150-foot frontage and is required to be 175 feet.

Ms. Cabaret showed plans for the addition, increasing the size of a room with a basement underneath the room. Ms. Cabaret stated that the addition was only being added to the right side of the house. Ms. Cabaret noted that the house would increase in size from 3000 sq. ft. to 3700 sq ft. The increase in the square footage also included the basement.

Chairman Kozik asked if there were any additional public comments; two were submitted. Both public comments were in favor of the project moving forward.

With no further input, Mr. Hoffman motioned at 8:42 PM (video 1:12:27) to close ZBA23-08. Adam Hoffman seconded the motion. Roll Call Vote: Ken Kozik-Aye, David Schena-Aye, Adam Hoffman-Aye.

The Board unanimously (3-0) 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 allow for an addition to an existing single-family residential dwelling located on a non-conforming lot. The existing structure and proposed addition comply with the side, rear and front yard Zoning Bylaw setbacks. The property is located at 135 High Street, Map/Parcel I3-71, in a Residential (R-4) and Groundwater Protection District (Zone 4).
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.

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

- (a) the proposed construction shall be built substantially in accordance with the Plans submitted with the Petition and contained in the file.

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



David Schena
Alternate Member