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BOARD OF APPEALS

Hearing #24-3

**DECISION ON PETITION TO GRANT
A SPECIAL PERMIT
WITH RESPECT TO
358 Great Road**

A public hearing of the Acton Board of Appeals was held via video conference on Tuesday, December 3, 2024, at 7:30 PM, on the petition of AHC, Inc. & Thomas Buckborough for a SPECIAL PERMIT under Section 8.3.3 of the Acton Zoning Bylaws for a horizontal extension of a non-conforming building.

The subject property is located at D4-18-M. The site consists of two structures: a single-family dwelling and an office building. The applicant is proposing an addition to the single-family dwelling (358A Great Road) and for the reconstruction of the existing office building into a mixed-use building with one retail space and three dwelling units (358B Great Road).

Legal Pre-Existing Non-Conforming Structures: The project site is located in the Limited Business (LB) zoning district, which has a minimum front yard setback of 75 feet. The existing single-family dwelling is 21.7 feet from the front property line and the existing vacant office building is 29.5 feet from the front property line. The reconstruction of the existing and the construction of two additions for the single-family home will be no closer than the existing non-conformities.

The applicant is proposing to expand the proposed mixed-use building along the horizontal front of the pre-existing non-confirming structure. In order to "hold" the nonconformity, the structural elements of portions within the setback need to be kept. The applicant is also proposing additions on to the single-family home within the 75-foot setback.

The application was distributed for departmental review and comments on October 11, 2024.

Present at the hearing were Adam Hoffman, Chairman, Scott Robb, Member, and Michelle Holland, Associate Member. Staff present included Kristen Guichard, Planning Director and Zoning Enforcement Officer. Paul Kirchner from Stamski and McNary presented the application on behalf of the applicant, Thomas Buckborough.

Applicable Bylaws:

8.3.3: "A BUILDING, which is nonconforming with regard to any yard requirements may be extended horizontally within the dimension of its existing non conformity by special permit from the Board of Appeals, provided that the extension otherwise confirms to all the dimensional requirements of this by Bylaw, and provided further that the Board of Appeals finds that such an extension is not substantially more detrimental to the neighborhood than the existing nonconforming condition of the BUILDING.

Minimum Findings by Special Permit Granting Authority

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

The applicant's Architect, Paul Kirchner provided an overview of his client's current dwelling which is a single-family dwelling (358A Great Road) and for the reconstruction of the existing office building into a mixed-use building with one retail space the three dwelling units. The existing single-family dwelling is 21.7 feet from the front property line and the existing vacant office building is 29.5 feet from the front property line. The reconstruction of the existing building and the construction of two additions for the single-family home will be not closer than the existing non-conformities.

Mr. Robb asked the applicant to review the proposed building drawings and plans on the screen. Mr. Robb focused on the size and scale of his question to the applicant's proposed changes.

With no further input, Mr. Robb made a motion to close the public hearing. Ms. Holland 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 8.3.3 of the Acton Zoning Bylaw to construct a horizontal extension of a pre-existing non-confirming structure.
2. Under Acton Zoning Bylaw 8.3.3, Applicant's 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, Applicant's proposed construction is consistent with the Master Plan as the property will remain a single-family house.
4. Under Acton Zoning Bylaw 10.3.5.2, Applicant's 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 GFA is consistent to the GFA 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 condition: the structural elements of the front wall shall remain in its current location to retain the legality of the structure's legal pre-existing non-conforming setback status.**

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



Adam Hoffman
Chairman



Michelle Holland
Member



R. Scott Robb
Member