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ACTON, MA**



BOARD OF APPEALS

Hearing #20-01

**DECISION ON PETITION FOR A SPECIAL PERMIT
WITH RESPECT TO**

97 Parker Street, Acton, MA

This is a Decision of the Acton Zoning Board of Appeals on the request of the petition of Rodger and Joan Klopf for a Special Permit under Section 8.1.5 of the Acton Zoning Bylaw to allow for the construction of a two car detached garage with attic on a non-conforming lot. The proposed construction meets all zoning setbacks.

The subject property is classified as a non-conforming lot based on insufficient frontage, where 175 feet would be required in the R-4 zoning district. The lot has approximately 2.7 acres which far exceeds the minimum required 40,000 square feet.

The owners propose the construction of a detached two car garage with attic totaling 849 sq. ft. The gross floor area of the existing home is 2,349 sq. ft. as submitted on the application by the petitioners. Note: the town assessor's office lists the property square footage as 2,724. In either case, the new construction far exceeds the 15% gross floor area permitted by Section 8.1.4 of the Town of Acton Zoning Bylaw, so the owners are required to apply for a Special Permit under Section 8.1.5 of the Bylaw. The property is located at 97 Parker Street, Acton, MA, Map/Parcel I3-7.

The Board opened a duly noticed public hearing on March 10, 2020 at 7:05pm. Board of Appeals members present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, R. Scott Robb, Member. Roland Bartl, Planning Director, and Vivian Birchall, Administrative Assistant were in attendance as well as the petitioner and their contractor, Guaranteed Builders & Developers, Inc.

Mr. Kozik explained the public hearing process. The applicant's contractor presented an overview of the application for a special permit to allow for the addition of a detached two car

garage with attic located on a non-conforming lot. This would cause an increase in the net floor area, which is more than the 15% alteration by right. Therefore, the proposed addition requires a special permit under Section 8.1.5. The contractor presented a detailed set of drawings depicting the proposed construction.

There being no questions from the board or the public, Mr. Hoffman moved, Mr. Robb seconded to close the public hearing. The vote was unanimous (3-0). The hearing closed at 7:12pm.

The application was distributed for departmental review and comments prior to the March 10 hearing. The Planning Division had no objection to granting the requested special permit with incorporating recommended conditions and limitations. The Health Division had no objections, while reminding the petitioner that any new foundation wall must be at least 10' from septic system components. They added that this is not a concern, since the existing septic system is far away from the proposed new construction.

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

Acton Zoning Bylaw 8.1.5 States:

In all other cases, the Board of Appeals may, by special permit, allow such construction 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.

During deliberation, the Board discussed the project's consistency with the master plan, whether it complied with the bylaws, and whether it was appropriate for the site in question. After Board discussion, Mr. Hoffman moved and Mr. Robb seconded to grant the special permit, with conditions that the project be built substantially as presented at the meeting. The motion carried unanimously (3-0), at 7:14pm.

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

1. The Petitioner seeks a Special Permit under Section 8.1.5 of the Acton Zoning Bylaw to allow the construction of a detached two car garage with attic. The property is located at 97 Parker Street, Acton, MA, Map/Parcel I3-7.
2. The proposed garage with attic is not more detrimental to the neighborhood.
3. The proposed garage with attic meets 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** with the following Conditions:

- The development shall be executed substantially as presented in the most recent plans used during the March 10, 2020 meeting.

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

R. Scott Robb

Dated: May 5, 2020

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TOWN OF ACTON BOARD OF APPEALS

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TOWN OF ACTON BOARD OF APPEALS

Kenneth F. Kozik, Chairman

Adam Hoffman

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R Scott Robb
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R. Scott Robb

May 7, 2020