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**BOARD OF APPEALS**

Hearing #19-04

**DECISION ON PETITION FOR A GRANT  
OF A VARIANCE  
WITH RESPECT TO  
30 Carlisle Road, Acton, MA**

A public hearing of the Acton Board of Appeals was held on Monday, April 8, 2019, at 7:30 PM in the Acton Town Hall on the petition of Stefan Spazek for a VARIANCE under Section 10.5 of the Acton Zoning Bylaw for construction of a two-car garage and a covered walkway. The property is located in the R-2 zoning district at 30 Carlisle Road in Acton, Map B6, Parcel 25.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, Scott Robb, Associate Member, Roland Bartl, Planning Director, and Vivian Birchall, Administrative Assistant. Also present were the petitioner, Stefan Spazek, and Daniel Gannon from Stamski & McNary.

**Applicable Bylaw:**

*10.5.5.1 That owing to circumstances relating to the soil conditions, shape, or topography of the LOT or STRUCTURES in question and especially affecting such LOT or STRUCTURES but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Petitioner.*

Mr. Kozik opened the hearing, viewed the contents of the file and explained how the Board procedurally operates. Mr. Kozik then asked the petitioner to begin.

Mr. Spazek and Mr. Gannon are requesting a variance for the proposed construction of a two car garage, addition to the existing dwelling, and a covered walkway on the referenced property. The current lot consists of a single family dwelling with an associated driveway, deck patio,

shed, and septic system. The lot cover is mostly lawn with some wooded area. North Street is located to the North and Carlisle Road is located to the East of the property. The property currently has the required lot area of 20,000 square feet (21,696 +- provided) and currently meets all other dimensional requirements in the R-2 Zoning District. The current lot is a corner lot and therefore has two front yard building setbacks. The proposed structures provide a 19.9' front yard setback at a minimum along North Street (30' minimum Zone R-2).

In this situation, the lot is a corner lot, meaning two front yard setbacks of 30' each, which will limit the amount of buildable land. Building the garage outside of the setbacks at a different location would impose a "financial hardship" which is "substantial" because it would involve either replacing the existing septic system which is located on the east side of the lot or the applicant would have to pave a significant portion of the lot to access the proposed garage from either North Street or Carlisle Road.

After discussion, the board did not think that the argument presented by the applicant was sufficient and unique to justify a variance. It was also pointed out that the garage could be constructed on another part of the lot, which would comply with Zoning Bylaws.

Mr. Robb moved to deny the variance request. Mr. Hoffman seconded the motion. By a vote of 3-0, the decision to award the variance was unanimously declined.

Ms. Hoffman moved and Mr. Robb seconded to close the public hearing. The motion was unanimously (3-0) approved.

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

1. The Petitioners seek a VARIANCE under Sections 10.5.5.1 and 10.5.5.2 of the Acton Zoning Bylaw for construction of a two-car garage and walkway within the front yard setback. The property is located in the R-2 zoning district at 30 Carlisle Road (Map B6, Parcel 25).
2. The front setback for R-2 is 30 feet. The petitioners propose a 19.9' foot setback to the proposed garage and walkway additions.
3. There are no circumstances relating to the soil conditions, shape, or topography of the LOT or STRUCTURES that were subject of this hearing that did not also affect LOTS or STRUCTURES generally in the zoning district in which it is located.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **DENY** the **VARIANCE**.

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

Scott Robb

Dated: \_\_\_\_\_