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BOARD OF APPEALS

Hearing #19-12

**DECISION ON PETITION FOR A SPECIAL PERMIT APPLICATION FOR
EXPANSION A NON-CONFORMING LOT
WITH RESPECT TO 87 HAMMOND STREET**

A public hearing of the Acton Board of Appeals was held on Tuesday, September 3, 2019, at 7:30 PM in Room 204 in the Acton Town Hall on the petition by Andrew and Anna Roberts for Special Permit to allow for alterations to an existing single family dwelling located on a non-conforming lot and extensions of a structure on a non-conforming lot within a non-confirmed setback under (Acton Zoning Bylaws Sections 8.1.5, 8.3.3, and 10.3.5). Specifically, the applicant proposed an entry level portico to the front of the house. The property is classified as non-conforming lot based on insufficient frontage. The required frontage and square feet in the R-4 Zoning district is 175 +/- feet and 40,000 +/- square feet respectively. The property in question has 150 +/- feet of frontage and 43,902 +/- square feet of area. The required front yard setback is 45 and currently the nonconforming setback measures to 28.5. The property is located on 87 Hammond Street (Map/Parcel E3-16). Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, Scott Robb, Member, Kristen Guichard, Senior Planner and Vivian Birchall, Land Use Administrative Assistant.

Applicable Bylaws:

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.

8.3.3 A BUILDING, which is nonconforming with regard to any yard requirement may be extended horizontally within the dimension of its existing nonconformity by special permit from the Board of Appeals, provided that the extension otherwise conforms to all the dimensional requirements of this 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.

10.3.5Mandatory 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:

- *10.3.1Is 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, explained how the Board procedurally operates and asked the petitioner to begin.

The petitioner explained that they are requesting special permit from the Bylaws to build a front end portico which is would be an alteration to existing single family dwelling located on a non-conforming lot and extension of a structure on a nonconforming lot within a nonconforming setback.

Mr. Kozik referred them to the wording of the Section 10.3.5, reproduced above, and provided a general discussion of what the petitioners needed to demonstrate to the Board in order to be granted a special permit. In response, the petitioner argued that it does not exceed the by-right 15% expansion requirements. Secondly the petitioner provided various illustrations of the proposed portico along with photos of representative houses along Hammond Street to demonstrate how it would be consistent with the harmony of the neighborhood. An abutter on Hammond Street was present to provide his personal endorsement of the proposed expansion.

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. The Petitioners seek a SPECIAL PERMIT under Sections 8.1.5, 8.3.3 and 10.3.5 of the Acton Zoning Bylaw for the alteration of an entry portico to the front of the house. The proposed portico is a horizontal extension of the structure within a pre-existing non-conforming setback. . The property is located in 87 Hammond Street12 Parker Street (Map/Parcel E3-16).
2. Based on the Town of Acton's Engineering Department analysis and the Water Supply District, the proposed structure of the addition does not appear to create any recorded easement issues nor flood plan issues as it appears to be within the 100 year flood plain area.
3. The proposed addition is not injurious or detrimental to the neighborhood. This is

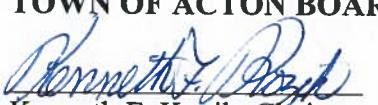
further evident by the endorsement of a neighbor attending the hearing and photos of the houses in close proximity to 87 Hammond Street in the neighborhood.

4. The granting of such special permit is consistent with the Master Plan and is appropriate for the site in question.
5. The special permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

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

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

Under Bylaws Section 8.1.5, 8.3.3 and 10.3.5, any rights authorized by a special permit which are not exercised within one year from the date of the grant of such variance shall lapse and may be reestablished only after notice and a hearing under Section 10 of the Bylaw.