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ACTON BOARD
OF APPEALS

BOARD OF APPEALS

Hearing #22-05

**DECISION ON PETITION TO GRANT
A SPECIAL PERMIT
WITH RESPECT TO
9 LILAC COURT**

A public hearing of the Acton Board of Appeals was held on Tuesday, April 4th, 2023, at 7:30 PM, on the petition of Dylan Ethan, for a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaws for a reconstruction of a single-family residential structure on non-conforming lot.

The subject property is located in Residence 2 (R-2) Zoning District, in Map H3 and Parcel 62, in which the lot areas and the developable site area is 16,520 square feet. The Net Floor Area of the existing dwelling is 1,488 square feet. The applicant initially submitted plans in June of 2022 with proposed New Floor Area of approximately 3,046 square feet along with a proposed Floor Area Ratio of .32 surpassing the 15% limit. Therefore, the proposed reconstruction requires a special permit under Section 8.1.5.

The initial plans of the proposed Floor Area Ratio of .32 were significant. In addition, the applicant received many concerns and complaints from the surrounding neighbors as the initial plans showed a proposed house significantly larger than neighboring houses demonstrating non-conformity. It was suggested by the Board that the applicant reconsider and develop new plans later in 2022 or early 2023.

After several months, the applicant submitted revised plans and detailed supplemental information supporting the application. The plans included two specific house options including square footage of each home with the proposed net floor area.

- Options #1: 2,256 with a FAR of .14
- Option #2: 2,129 with a FAR of .13

In addition, the applicant submitted a detailed schedule along with new designs of how both options fit with the surrounding houses in the neighborhood in regards to their respective square footage. Also, the designs provided clear visual drawings demonstrating great alignment to current surrounding structures.

During the deliberations there was discussion regarding the preferences of the two options. There was general consensus that both options as outlined were acceptable, but the option #1 was the preferred.

The application was previously distributed for departmental review back in 2022. Departments were provided opportunities to review and provide additional comments.

The Planning Division didn't submit any additional comments, but stated if special permit is granted, that the decision should include the eight specified conditions and limitations outlined in their updated March 31th, 2023 memo as outlined in the application.

The Conservation Department did not provide any new written comments.

The Engineering Department did not provide any new written comments.

The Fire Department did not provide any written comments.

The Land Use Department-Health Division did not provide any new written comments.

The Water Department did not provide any written comments.

Present at the hearing were Ken Kozik, Chairman, David Schena, Member and R. Scott Robb, Member. Staff present included Kristen Guichard, Planning Director and Zoning Enforcement Officer and Alicia Burbank, Administrative Assistant, and Nora Masler, Assistant Planner from Town Planning Department. The representatives for the applicant were Carol Woods and Engineer Benjamin Osgood.

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.

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 petitioner to begin with the new proposal and specifically focus on the changes of the proposed new plans.

The applicant's spokesperson, Carol Woods, gave an updated presentation that included two new options and a detailed schedule and supporting documentation. Residents' comments present at the meeting were complimentary of the revised and preferred option #1. Board comments also were complimentary of the detailed information provided and the new designs house options.

With no further input, Mr. Robb made a motion to close the public hearing. Mr. Schena 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 8.1.5 of the Acton Zoning Bylaw to allow for a new single-family residential dwelling on a non-conforming lot that exceeds the existing Floor Area Ratio. The new structure complies with the side, rear and front yard Zoning Bylaw setbacks. The Floor Area Ratio will be .14. The property is located at 9 Lilac Court, Map/Parcel H3-62, in a Residential (R-2).
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 as the property will remain a single-family house.
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 as the proposed addition complies with the dimensional requirements of the zoning district in regards to lot line setbacks.

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 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** and specifically option #1 as outlined in the new proposed plans presented at the April 4, 2023 meeting, primarily because it met the conditions and intent of Bylaw: 8.1.5 and Section 10.3.5.

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



David Schena
Member



R. Scott Robb
Member