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DECISION #16-10

**DECISION ON PETITION FOR GRANT OF SPECIAL PERMIT WITH RESPECT TO
2 EVERGREEN ROAD**

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, December 5, 2016 on the Petition of Leslie Mahoney for a **SPECIAL PERMIT** under Section 8.1.5 of the Zoning Bylaws for dimensional relief to extend into the front yard setback at two locations for additions on a non-conforming lot. The new additions will not increase the existing non-conformity. The house is located at 2 Evergreen Road.

Present at the hearing were Jonathan Wagner, Chairman; Ken Kozik, Member; and Adam Hoffman, Member. Also present were Katelyn Huffman, Board of Appeals Secretary and Robert Hummel, Assistant Town Planner. Also present at the hearing was Leslie Mahoney, petitioner and architect for the proposed project.

Mr. Wagner opened the public hearing at 7:35 PM. Leslie Mahoney, the architect for the project, described the design, the required setbacks, and other relevant information for the proposed addition.

Mr. Kozik asked what the proposed increased in square feet would be for the project. Ms. Mahoney stated the new additions increased the total living space by approximately 988 square feet. Mr. Wagner asked what kind of siding would be used for the addition. Ms. Mahoney indicated that vinyl siding would be used.

Mr. Kozik made a motion to close hearing #16-10 at 7:55 PM. Mr. Hoffman seconded the motion. The motion carried unanimously.

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 Zoning Bylaws to add two additions to an existing home without increasing existing non-conforming conditions.
2. The property is located at 2 Evergreen Road.

3. The proposed additions are nonconforming because they do not comply with present lot area and frontage requirements specified in the Acton Bylaws.
4. The proposed additions will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.
5. The proposed additions are:
 - (a) consistent with the Master Plan and is in harmony with the general purpose and intent of the Zoning Bylaws;
 - (b) appropriate for the site and will not be more detrimental or injurious to the neighborhood;
 - (c) otherwise complies with the applicable requirements of the Zoning Bylaws.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **SPECIAL PERMIT** subject, however, to the following **conditions**:

1. Must be in compliance with most recently submitted architectural plans and plot plans filed on December 5, 2016 and have the same type of windows, siding, and roofing as the rest of the dwelling.

Any person aggrieved by the decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within twenty (20) days after this decision is filed with the Acton Town Clerk.

TOWN OF ACTON BOARD OF APPEALS


Jonathan Wagner
Chairman


Ken Kozik
Member


Adam Hoffman
Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on _____, 2017.

Kimberly Bricker, Secretary
Board of Appeals

This decision, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the Town Clerk that (1) 20 days have elapsed after the

decision has been filed in the office of the Town Clerk and (2) either no appeal has been filed or an appeal has been filed within such time, has been recorded with the Middlesex South County Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.