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**SEP 23 2019**

Use Special Permit 19-03  
905 Main Street  
September 17, 2019

**TOWN CLERK  
ACTON**



Planning Board

**TOWN OF ACTON**  
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**DECISION  
19-03**

**905 Main Street**  
Use Special Permit  
September 17, 2019

GRANTED with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of Frank Thibeault (hereinafter the Applicant) located at 905 Main Street on property in Acton, Massachusetts, owned by FX Properties. The property is shown on the Acton town map as parcels C5-13 (hereinafter the Site).

This Decision is in response to an application for an use special permit, received by the Acton Planning Division on August 9, 2019 pursuant to Section 3.8.1.6 m & n of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Use Special Permit Rules and Regulations (hereinafter the Rules).

The Applicant presented the subject matter of the special permit to the Board at a duly noticed public hearing on September 17, 2019. Board members Mr. Derrick Chin (Chair), Ms. Emilie Ying (Vice-Chair), Mr. Jon Cappetta, Mr. Anping Liu and Mr. Ray Yacoubi were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Division or the Town Clerk's office at the Acton Town Hall.

**1 EXHIBITS**

Submitted for the Board's deliberation were the following exhibits:

- 1.1 Items and documentation required by the Rules consisting of:
  - A properly executed Application for a use special permit, received in the Planning Division on 8/9/2019;
  - Floor Plans;
  - Certified abutters list.
- 1.2 Interdepartmental communication received from:
  - Health Division, dated 08/30/2019;
  - Acton Water District, dated 09/03/2019;
  - Planning Division, dated 09/10/2019.

Exhibit 1.1 is referred to herein as the Plan.

## **2 FINDINGS and CONCLUSIONS**

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Site is located within the Residence – 2 (R-2) zoning district, partially within Zone 2 of the Groundwater Protection District and partially within the Floodplain District. The Site has an existing single family house and detached barn.
- 2.2 The Applicant requests a special permit to convert an existing barn to an accessory apartment under Zoning Bylaw section 3.8.1.6 m & n. The qualifying requirements in the Bylaw are below:
  - a) The existing building shall be in existence since April 2, 2019 and its footprint and floor area has not been expanded since.
  - b) An apartment in such a detached building may have a gross floor area of up to 2000 square feet, not including attic or basement areas, and up to three bedrooms.
- 2.3 The floor plans presented show the proposed accessory apartment to be 1,296 square feet of gross floor area and 2 bedrooms. It is proposed on the second floor, above the garage area.
- 2.4 The proposed use special permit request meets both of the requirements above.
- 2.5 The applicant will need to demonstrate that there is enough septic capacity to support the proposal.
- 2.6 The Acton Water District requested a plan on how to supply water to the kitchen and bath.
- 2.7 The applicant will need to comply with any necessary wetland permits, if applicable.
- 2.8 The use is consistent with the Master Plan.
- 2.9 The use is in harmony with the purpose and intent of this Bylaw.
- 2.10 The use will not be detrimental or injurious to the neighborhood in which it is to take place.
- 2.11 The use is appropriate for the site in question.
- 2.12 The use complies with all applicable requirements of this Bylaw.

2.13 The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as deemed appropriate.

### **3 BOARD ACTION**

Therefore, the Board voted unanimously to GRANT the requested special permit, subject to and with the benefit of the following conditions and limitations.

#### **3.1 CONDITIONS**

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this use special permit null and void, without force and effect, and shall constitute grounds for the revocation of this use special permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this use special permit using any and all powers available to it under the law.

- 3.1.1 Prior to the 1<sup>st</sup> building permit.
  - a) The applicant shall receive septic plan approval from the Health Division.
  - b) The applicant shall receive approval from the Acton Water District on the applicant's water use.
- 3.1.2 The septic system shall be located within Zone 3 of the Groundwater Protection District.
- 3.1.3 The use shall be conducted at all times in accordance with the terms of this use special permit and shall conform with and be limited to the improvements indicated in the Plan as modified herein.
- 3.1.4 Any change, expansion or modification that is not in conformance with this use special permit shall require further approval of the Board.
- 3.1.5 The Applicant shall meet all requirements of the Town Bylaws.
- 3.1.6 All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full.
- 3.1.7 The Applicant shall record this Decision at the Middlesex South District Registry of Deeds.

#### **3.2 LIMITATIONS**

This special permit shall be limited as follows:

- 3.2.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all-inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.2.2 This special permit applies only to the Site identified in this decision and to the proposed use as shown on the Plan.
- 3.2.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.

3.2.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.

3.2.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

#### **4 APPEALS**

Appeals, if any, shall be made pursuant to MGL, ch. 40A, s. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

Signed on behalf of the Acton Planning Board



Roland Bartl, AICP, Planning Director  
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

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Eva Szkaradek, Town Clerk

Date

Copies furnished:

Applicant -  
Managers Department  
Owner  
Acton Water District

Land Use Department  
Engineering Department  
Fire Department

Town Clerk  
GIS  
Police Department