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TOWN OF ACTON
PLANNING DEPARTMENT



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BOARD OF APPEALS

Hearing #23-06

**DECISION ON PETITION TO GRANT
A SPECIAL PERMIT
WITH RESPECT TO
105-115 RIVER STREET**

A public hearing of the Acton Board of Appeals was held via video conference on Tuesday, February 6, 2024, at 7:30 PM on the petition of 20 Sonar Drive LLC for a SPECIAL PERMIT under Section 8.2.3.2 of the Acton Zoning Bylaw to allow for a second story addition to an existing single-family residential dwelling. Single family dwellings are not permitted in the L1 Zoning District, so this is considered an extension of a nonconforming use.

The property is located at 105-115 River Street, Map/Parcel H3-226 and H3-226-1, in a Limited Industrial (LI) and Groundwater Protection District Zones 3 and 4, and Floodplain Overlay District.

In 2022, the Applicant was granted a Variance (ZBA 22-4) to demolish a deteriorated warehouse on the location and replace it with a new warehouse structure on the same location.

The applicant is requesting a special permit for the extension of a nonconforming use (ZBL Section 8.2.3.2). Single-family dwellings are not permitted in the LI zoning district. The applicant is requesting to add a second story to the existing dwelling, which is considered an extension of that nonconforming use, requiring a Special Permit under Acton Zoning Bylaw 8.2.3.2.

The Applicant noted the Gross Floor Area of the existing structure is approximately 1,080sf. The Applicant plans to remodel the first floor and extend the second floor bringing the proposed total square footage to 1,360, which is an increase of approximately 26%. The Applicant plans no dimensional changes to the existing foundation. All work will take place within the footprint of the existing dwelling and structural wall. After discussing with Town Staff, it was determined that a Special Permit for the horizontal extension of a nonconforming building is no longer required (ZBL Section 8.3.3)

The Planning Division memo stated no objection to granting the requested special permit. They did note the proposed plans need to be reviewed and approved by the Conservation Commission, and that the existing dwelling is on the Town's Cultural Resource List. The Planning Division stated the Historical Commission did not impose a demolition delay.

No other Town Departments or Divisions submitted written comments.

No written comments were submitted by Town residents.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member and David Schena, Member. Staff present included Kristen Guichard, Planning Director and Zoning Enforcement Officer; Nora Masler, Planner. The Applicant David Bamforth, General Contractor Chris Chan-Tse, and Attorney Louis Levine were also present.

Applicable Bylaws:

8.2.3 Extending a Nonconforming USE-

8.2.3.2 In all other Districts, a nonconforming USE may be extended in area by special permit by the Board of Appeals.

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 petitioners to begin.

The applicants gave a brief overview regarding their special permit application. They are requesting a special permit to remodel the first floor of an existing single-family dwelling and extend the second floor. The proposed plans will be constructed within the existing dwelling's foundation footprint and associated structural wall. Detailed architectural drawings of the proposed construction were submitted for review during the applicant's presentation. The proposal was approved by the Town Historical Commission.

Chairman Kozik asked if there were any additional public comments. Public comments were neither submitted during the hearing nor in writing prior to the meeting.

With no further input, Mr. Hoffman made a motion to close the public hearing at 7:55pm. Mr. Schena seconded the motion. The Board unanimously (3-0) 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 8.2.3.2 of the Acton Zoning Bylaw to allow for a second story addition to an existing single-family residential dwelling. The property is located at 105-115 River Street, Map/Parcels H3-226 and H3-226-1, in a Limited Industrial (LI)s and Groundwater Protection District Zones 3 and 4, and Floodplain Overlay District.
2. Under Acton Zoning Bylaw 8.2.3.2, Applicants' proposed construction is considered a nonconforming use and may be extended in area by special permit from the Board of Appeals.
3. Under Acton Zoning Bylaw 10.3.5.1, Applicants' proposed construction is consistent with the Master Plan.
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.

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

1. The proposed construction shall be completed as substantially presented during the February 6, 2024 hearing.
2. The existing foundation and structural wall will be retained or linked together.

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
Member

David Schena
Alternate Member

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