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**TOWN OF ACTON
PLANNING DEPARTMENT**



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BOARD OF APPEALS

Hearing #23-05

**DECISION ON PETITION FOR A GRANT
OF A SPECIAL PERMIT
WITH RESPECT TO
226 MAIN STREET**

A public hearing of the Acton Board of Appeals was held remotely by video and teleconference on Tuesday, November 7, 2023, Tuesday, February 6, 2024, and again on Tuesday, April 2 2024, on the petition of Neeraj Varshney for a SPECIAL PERMIT for reconstruction on a non-conforming lot in excess of existing floor area ratio (Zoning Bylaw Section 8.1.5). The property is located at 226 Main Street (Map/Parcel G2-101).

Present at the remote hearing were Ken Kozik, Chairman, Adam Hoffman, Member and David Schena, Alternate Member. Staff present included Kristen Guichard, Planning Director and Zoning Enforcement Officer; Kaila Sauer, Assistant Planner; Alicia Burak, Administrative Assistant. Also present were the applicant, Neeraj Varshney, and applicant's architect/developer.

Applicable Bylaws:

8.1.3 Reconstruction of Single- and Two-FAMILY residential STRUCTURES on Nonconforming Lots – A lawful Single-FAMILY Dwelling on a nonconforming LOT may be reconstructed for Single-FAMILY residential USE on the same lot; and a lawful Two-FAMILY Dwelling on a nonconforming LOT may be reconstructed for Two-FAMILY residential USE on the same lot; in both cases subject to the following conditions and limitations:

8.1.3.1 The reconstructed STRUCTURE shall not exceed the FLOOR AREA RATIO on the LOT of the STRUCTURE that existed on the LOT before it was razed or damaged.

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, explained how the Board procedurally operates, and then asked the petitioner to begin.

Applicant's representative explained that the applicant, Neeraj Varshney, is requesting a Special Permit under Section 8.1.5 of the Zoning Bylaw to allow for the reconstruction of a single-family residential dwelling located on a non-conforming lot. The subject property is classified as a non-conforming lot due to insufficient lot area and lot frontage. The required lot area for the R-2 Zoning District is 20,000 square feet. The lot area of 226 Main Street 16,003 square feet. The required lot frontage for the R-2 District is 150 feet. The lot frontage for 226 Main Street is 100 feet. The existing structure and proposed reconstruction comply with the side, rear and front yard setbacks.

The existing gross floor area of the current dwelling is 1,817 ft², with an existing floor area ratio of 0.11.

The applicant's architect/developer described the proposed reconstruction.

In response, Board members questioned the petitioner with respect to the proposed scale, and to the sizes of adjacent properties. The applicant explained that the proposed expansion and resulting size of the dwelling would not be out of place in comparison to adjacent properties.

Over the course of three meetings, in response to Board members' concerns and public concerns over the initial size of the reconstruction, applicant reduced the initial proposed size of new construction requested from 5,215 ft² to 2,792 ft². This reduced the proposed floor area ratio from 0.33 to 0.17, an increase of 53.66 % over the current floor area ratio.

The Board commended the applicant for cooperating in reducing the overall scale of the reconstruction.

The Planning Division of Acton had no technical concerns with the application.

The application was distributed for departmental review and comments on October 20, 2023. No comment was provided in response.

With no further input, Mr. Hoffman 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. Petitioners seek a SPECIAL PERMIT for reconstruction on a non-conforming lot in excess of existing floor area ratio (Zoning Bylaw Section 8.1.5). The property is located at 226 Main Street (Map/Parcel G2-101).
2. Petitioner's proposed reconstruction is consistent with the Master Plan.
3. Petitioner's proposed reconstruction is in harmony with the purpose and intent of this Bylaw.
4. Petitioner's proposed reconstruction will not be more detrimental or injurious to the neighborhood in which it is to take place.
5. Petitioner's proposed reconstruction is appropriate for the site in question.

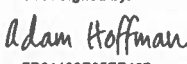
Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT the SPECIAL PERMIT**, subject, however, to the following conditions:

- (a) the proposed construction shall be built substantially in accordance with the most current Plans submitted with the Petition and contained in the file.

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

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Adam Hoffman
Member



David Schena
Alternate Member

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