

RECEIVED
TOWN CLERK
TOWN OF ACTON, MA
2024 JUL 16 AM 8:09



RECEIVED
JUL 16 2024

TOWN OF ACTON
PLANNING DEPARTMENT

BOARD OF APPEALS

Hearing #24-1

DECISION ON PETITION TO GRANT A SPECIAL PERMIT WITH RESPECT TO 51 ROBBINS STREET

A public hearing of the Acton Board of Appeals was held on Tuesday, April 2, 2024, at 8:35, (archived video start point 00:13:00) on the petition of Yan Ma for a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to allow for an addition to an existing single-family residential dwelling located on a non-conforming lot.

The property is located at 51 Robbins Street, Map/Parcel H2-29 in a Residential 2 (R-4) and Groundwater Protection District (Zone 4).

The subject property is classified as a non-conforming lot due to insufficient frontage. The required frontage for the R-2 Zoning District is 150 feet. The lot has 76.73 feet of frontage. The minimum lot area for the R-2 Zoning District is 20,000 square feet. The lot has 17,696 square feet. The existing structure and proposed additions comply with the rear and front yard setbacks.

The Gross Floor Area of the existing dwelling is 2,016sq. ft. Zoning Bylaw Section 8.1.4 allows for extensions or alterations by-right if they do not increase the overall size of the structure by more than 15% of the existing Gross Floor Area, or 302.4 sq. ft. in this case. The proposed new addition would add an additional 1,670 sq. ft., which represents an 82% increase to the existing dwelling. Therefore, the proposed expansion requires a special permit under Section 8.1.5.

The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Sections 8.1.5 and 10.3.5.

The application was distributed for departmental review and comments on March 11, 2024

The Planning Department had no technical concerns with the application.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, and David Schena, Alternate Member. Staff present included Kaila Sauer, Senior Planner, and Alicia Burak, Administrative Assistant. The applicants were represented by Mr. and Ms. MA (Homeowners)

The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Sections 8.1.5 and 10.3.5. If the special permit is granted, the decision should include findings, conditions and limitations as follows:

Applicable Bylaws:

8.1.4 Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots – One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15 percent of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that LOT became nonconforming, whichever is later.

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. Hoffmann opened the hearing and explained how the Board procedurally operates. Mr. Hoffmann then asked the petitioners to begin. Mr. & Ms. MA showed plans for the addition, increasing the size of the garage and adding a large room on top. Mr. Ma stated that the addition was only being added to the right side of the house. Ms. Cabaret noted that the house would increase in size from 2016 sq. ft. to 3600 sq ft.

Mr. Hoffmann asked if there were any public comments; There were none.

With no further input, Mr. Kozik motioned at 8:42 PM (video 1:03:00) to close ZBA24-01. David Schena seconded the motion. Roll Call Vote: Ken Kozik-Aye, David Schena-Aye, Adam Hoffman-Aye.

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 8.1.5 of the Acton Zoning Bylaw to allow for an addition to an existing single-family residential dwelling located on a non-conforming lot. The existing structure and proposed addition comply with the side, rear and front yard Zoning Bylaw setbacks. The property is located at 51 Robbins Street, Map/Parcel H2-29, in a Residential (R-2) and Groundwater Protection District (Zone 4).
2. Under Acton Zoning Bylaw 8.1.5, Applicants' proposed construction would be substantially more detrimental to the neighborhood than the existing non-conforming structure due to the proposed size.
3. Under Acton Zoning Bylaw 10.3.5.1, Applicants' proposed construction is not consistent with the Master Plan.
4. Under Acton Zoning Bylaw 10.3.5.2, Applicants' proposed construction is not 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 two to Deny and one to Approve the **SPECIAL PERMIT**.

Therefore, the Special Permit was denied.

TOWN OF ACTON BOARD OF APPEALS

Kenneth F. Kozik
Chairman

Adam Hoffman
Member



David Schena
Alternate



With no further input, Mr. Kozik motioned at 8:42 PM (video 1:03:00) to close ZBA24-01. David Schena seconded the motion. Roll Call Vote: Ken Kozik-Aye, David Schena-Aye, Adam Hoffman-Aye.

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 8.1.5 of the Acton Zoning Bylaw to allow for an addition to an existing single-family residential dwelling located on a non-conforming lot. The existing structure and proposed addition comply with the side, rear and front yard Zoning Bylaw setbacks. The property is located at 51 Robbins Street, Map/Parcel H2-29, in a Residential (R-2) and Groundwater Protection District (Zone 4).
2. Under Acton Zoning Bylaw 8.1.5, Applicants' proposed construction would be substantially more detrimental to the neighborhood than the existing non-conforming structure due to the proposed size.
3. Under Acton Zoning Bylaw 10.3.5.1, Applicants' proposed construction is not consistent with the Master Plan.
4. Under Acton Zoning Bylaw 10.3.5.2, Applicants' proposed construction is not 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 two to Deny and one to Approve the **SPECIAL PERMIT**.

Therefore, the Special Permit was denied.

TOWN OF ACTON BOARD OF APPEALS

Kenneth F. Kozik
Chairman

DocuSigned by:
Adam Hoffman
FD01109E05EE46B

Adam Hoffman
Member

David Schena
Alternate