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BOARD OF APPEALS

Hearing #25-4

DECISION ON PETITION TO GRANT A SPECIAL PERMIT UNDER ZBL, Section 4.1.8 – Flood Plain (#ZBA25-4) FOR 6 JEFFERSON DRIVE

The property is located at 6 Jefferson Drive, Map/Parcel F3-5-5 in a Residence 2 (R-2) zoning district.

A public hearing of the Acton Board of Appeals was held on Tuesday, September 2, 2025, on the petition of Eyman Barrada for a SPECIAL PERMIT under ZBL Section 4.1.8 – Flood Plain (#ZBA-25-4). A Special Permit would allow for construction of an in-ground pool and a cabana which are located within Zone A of the 100-year flood zone.

The Board of Appeals authority:

In accordance with the Zoning Bylaw, the following USES may be permitted within the limits of the Floodway Fringe upon the issuance of a special permit by the Board of Appeals:

4.1.8.1 Any USE permitted in the underlying district in which the land is located, including grading, filling or excavating, subject to the same USE and development regulations as may otherwise apply thereto provided the Board of Appeals finds that:

- a) the proposed USE does not significantly conflict with the purposes of this Section;
- b) at least 98 percent of the Natural Flood Storage Volume of the Flood Plain on the site is preserved without the use of compensatory storage techniques and disturbance of the natural characteristics of the Flood Plain on the site is kept to a minimum;

- c) the elevation of the lowest point of any new vehicular or pedestrian ACCESS from a STREET to any BUILDING, including garages, used for human occupancy is at or above the Base Flood; and
- d) any new construction or Substantial Improvements must comply with the current building code.

The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Section 10.3.5 and 4.1.9.1 if it finds that the above conditions can be met and the Board agrees to the findings of Section 10.3.5.

If approved, a decision should include the following conditions required under Zoning Bylaw Section 4.1.9.1 and 4.1.9.2:

All structural and non-structural activities and development in the Flood Plain District, whether allowed under this Bylaw by right or by special permit must be in compliance with applicable State laws and regulations as amended from time to time, including, but not limited to M.G.L. Ch. 131, s. 40 (Wetlands Protection Act); 780 CMR (Massachusetts State Building Code applicable to Flood Resistant Construction); 310 CMR 10.00 & 13.00 (Wetlands Protection and Inland Wetlands Regulations); and 310 CMR 15.00 (Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage).

Upon completion of any authorized work an "as-built" plan, prepared by a Registered Professional Engineer or a Registered Land Surveyor, as appropriate to the data, of all improvements in the Flood Plain District shall be submitted to the Zoning Enforcement Officer and shall specify the elevation of the Lowest Floor including basement, the elevation to and method by which any STRUCTURE has been floodproofed and the finished grades of all disturbed areas.

In addition, if the special permit is granted, the decision should also include findings, conditions and limitations as follows:

1. That the Petitioner must record the decision at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the site.
2. That all taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full before the issuance of a building permit.
3. That the special permit 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.
4. That the Town of Acton may elect to enforce compliance with the special permit using any and all powers available to it under the law.

5. That other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by the decision.
6. That the Board reserves its right and power to modify or amend the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, its designees or assigns, or upon its own motion.

Present at the hearing were Adam Hoffman, Acting Chair, Scott Robb, Member, and David Schena, Member. Staff present included Nathaniel Ryan, Assistant Planner II and Edward Mullen, Building Commissioner/ZEO. The applicant was represented by Paul Kirchner from Stamski and McNary as well as the homeowner Eyman Barrada.

Paul Kirchner presented the request for the owner, stating that the pool and cabana would preserve 99% of the natural flood storage volume. The pool is a replacement for an old one that was removed. The new pool was shown to be smaller than the older one. The topic of the cabana drew questions from the board. The cabana was undefined and very vague in description.

After the board questioned the owner about specifics of the cabana, the owner decided to drop the addition of the cabana and solely focus on adding the pool.

After the presentation and board discussion, the meeting was opened to the public for comment. There were no public comments.

With no further input, Adam Hoffman motioned to close ZBA25-4. David Schena seconded the motion. Roll Call Vote: Scott Robb -Aye, David Schena -Aye, Adam Hoffman -Aye.

The Board voted unanimously (3-0) to close the hearing.

The Board of Appeals then proceeded to deliberate. After deliberation the Board of Appeals voted on the special permit.

The Board of Appeals, after reviewing the available materials and based upon the above findings, all three members of the Board voted to approve the **SPECIAL PERMIT**.

Therefore, the Special Permit was granted with the following conditions:

- Final Plans need to be submitted;
- The cabana needs to be removed from the plan and project.

TOWN OF ACTON BOARD OF APPEALS



Scott Robb
Member

DocuSigned by:

Adam Hoffman
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Adam Hoffman
Acting Chair



David Schena
Member