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## BOARD OF APPEALS

Hearing #16-06

### DECISION ON PETITION FOR GRANT OF SPECIAL WITH RESPECT TO 25 NEWTOWN ROAD

A public hearing of the Acton Board of Appeals was held on Monday, August 1, 2016 at 7:30 PM in Room 9 of the Acton Town Hall on the petition of Matthew Mehler, for a **SPECIAL PERMIT** under Section 8.1.5 of the Acton Zoning Bylaw to construct a second-story expansion to an existing non-conforming structure on a non-conforming lot. The property is located at 25 Newtown Road.

Present at the hearing were Jonathan Wagner, Chairman; Adam Hoffman, Member; Ken Kozik, Member; Katelyn Huffman, Board of Appeals Secretary, Roland Bartl, Town Planner and , Kristen Guichard, assistant town planner. Also present at the hearing were Matthew Mehler (the petitioner), Janet Adachi, Board of Selectmen Liaison, Ron Baver, Jonathan Sides, Andrew Shlesinger, Tim Membrino, Maria Membrino, Pete Pelletier, Louis Levine, Joseph Levine, and Don Johnson.

Chairman Wagner opened the hearing and before asking the petitioner to begin disclosed that he hired the petitioner to paint his house many years ago but felt that he did not hold any bias. The petitioner disclosed that he hadn't even known that Mr. Wagner was on the board when applying for the application and felt that Mr. Wagner sitting on the board for the hearing was acceptable.

Mr. Mehler requests a Special Permit under Section 8.1.5 of the Zoning Bylaw to allow for the second-story expansion of an existing single family dwelling located on a non-conforming lot. The subject property is classified as a nonconforming lot due to insufficient lot area and frontage. The required lot area in the R-2 Zoning District is 20,000 square feet and the required frontage is 150 feet. The property in question only has 16,880 square feet of area and 141 feet of frontage. The plan is to add three additional bedrooms as a proposed second floor expansion.

Mr. Wagner stated that the Board of Health limits the house to three (3) bedrooms. Mr. Mehler agreed that there would be no addition to the number of bedrooms and confirmed that the downstairs would be used for living and recreational space.

Mr. Wagner noted that Mr. Mehler would essentially be doubling the size of the house. Mr. Mehler agreed.

The Board of Appeals, after considering the materials submitted with the Petition, together with the information developed at the hearing, finds that:

1. The Petitioner seeks a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to construct an expansion to an existing non-conforming structure on a non-conforming lot. The subject property is located at 25 Newtown Road.
2. The existing building is nonconforming because it does not comply with present lot area and frontage requirements specified in the Acton Bylaws.
3. The proposed the second-story expansion is consistent with the Master Plan and is in harmony with the purpose and intent of the Bylaw.
4. The proposed the second-story expansion is appropriate for the site and will not be more detrimental or injurious to the neighborhood than the existing nonconforming structure.

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

1. The second-story expansion is to be erected substantially as shown in the plans filed on July 28, 2016.

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**

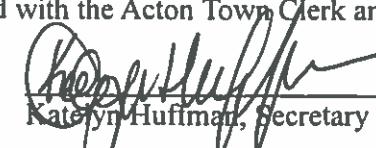
 Kenneth F. Kozik, Member

 Jon Wagner, Chairman

 Adam Hoffman, Member

Dated: 8/23/16

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on August 23<sup>rd</sup>, 2016.

 Katelyn Huffman, Secretary

**EFFECTIVE DATE OF SPECIAL PERMIT:** No Special Permit, or modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, it has been dismissed or denied.

**EXPIRATION DATE OF SPECIAL PERMIT:** This Special Permit must be exercised within two (2) years of its effective date.