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**TOWN CLERK
ACTON**

DECISION #18-06

**DECISION ON PETITION FOR GRANT OF SPECIAL PERMIT WITH RESPECT TO
52 Hayward Road**

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, July 2, 2018 on the Petition of Christian Lanciaux for a **SPECIAL PERMIT** under Section 8.1.5 of the Zoning Bylaws to expand his client's home by more than 15% of the current Gross Floor Area on a non-conforming lot. The house is located at 52 Hayward Road.

Zoning Board of Appeal members present at the hearing were Ken Kozik, Member and Chairman; Emilie Ying, Associate Member; and Adam Hoffman, Member. Also present was Roland Bartl, Planning Director. The petitioner, Christian Lanciaux was present as well as his client, Bryan McCullough.

Mr. Kozik opened the public hearing at 7:30PM. Mr. Lanciaux began by describing the proposed project. The homeowners operate a home daycare business on the lower/basement level. Parents dropping off and picking up their children currently use the home's existing single entrance to do so. The new addition will provide a separate daycare entrance as well as new daycare space that will provide additional light in the new play area as well as expanded nap space.

Mr. Lanciaux said the new addition will be wrapped in clapboard siding to match the existing siding that wraps around the rear of the residence.

The existing house lot exceeds the minimum size required by zoning. It is non-conforming due to frontage and lot width, which do not meet current Zoning ByLaws.

The current residence is a split-level home with a deck. The proposal is for a two-floor addition that exceeds the 15% by-right threshold, thus a special permit is required. The proposed addition represents a 38.8% increase in size. It would be built largely within the footprint of the existing deck.

Mr. Lanciaux and Mr. McCullough understood that any expansion over 15% of the existing Gross Floor Area would require a Special Permit from the ZBA.

Ms. Ying moved to close hearing #18-06. Mr. Hoffman seconded the motion. The motion carried unanimously.

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 Zoning Bylaws to build a two-floor addition for a daycare business.
2. The property is located at 52 Hayward Road.
3. The proposed addition cannot be allowed without a Special Permit, because the pre-existing non-conforming lot has insufficient frontage and width to meet requirements specified in the Acton Bylaws.
4. The proposed addition will not increase the existing non-conformity; even if it were to increase the non-conformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.
5. The proposed addition:
 - (a) is consistent with the Master Plan and in harmony with the general purpose and intent of the Zoning Bylaws;
 - (b) is appropriate for the site and will not be more detrimental or injurious to the neighborhood;
 - (c) otherwise complies with the applicable requirements of the Zoning Bylaws.
6. The Board of Appeals found the application met all the mandatory findings under section 10.3.5 for a Special Permit.

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**:

- The expanded structure is to be built substantially as shown in the plans submitted by Mr. Lanciaux and Mr. McCullough to the Board as of July 2, 2018.
- The expanded structure shall use clapboard siding on the exterior, which is consistent with the rear of the current structure.

Any person aggrieved by the decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within twenty (20) days after this decision is filed with the Acton Town Clerk.

TOWN OF ACTON BOARD OF APPEALS



Ken Kozik
Chairman



Adam Hoffman
Member



Emilie Ying
Associate Member

This decision, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the Town Clerk that (1) 20 days have elapsed after the decision has been filed in the office of the Town Clerk and (2) either no appeal has been filed or an appeal has been filed within such time, has been recorded with the Middlesex South County Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.