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BOARD OF APPEALS

Hearing #19-08

**DECISION ON PETITION FOR A SPECIAL PERMIT APPLICATION FOR
CONSTRUCTION OF AN ADDITION ON A ON A NON-CONFORMING LOT
WITH RESPECT TO 12 PARKER STREET**

A public hearing of the Acton Board of Appeals was held on Monday, June 3, 2019, at 8:00 PM in Room 204 in the Acton Town Hall on the petition of Anthony Bellissimo, Trustee and Jessica Bellissimo, Trustee for a Special Permit to allow for alterations to an existing single-family dwelling located on a non-conforming lot. Specifically, the owners want to construct a two-story porch and bedroom addition to the back and a two-car garage addition to the side of the house which requires a special permit under Sections 8.1.5 and 10.3.5 of the Acton Zoning Bylaws. The proposed square footage of the new construction requested is 1,485 square feet (62.44% of existing Gross Floor Area) vs. 15% permitted by-right is 356.7 square feet. The property is located on 12 Parker Street (Map/Parcel H4-104-3). Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, Scott Robb, Member, Kristen Guichard, Senior Planner and Vivian Birchall, Land Use Administrative Assistant.

Applicable Bylaw:

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:

- *10.3.1 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 asked the petitioner to begin.

The petitioner explained that they are requesting special permit from the Bylaw to construct a 1,485 square foot addition (single story garage and screened porch with bedroom above) to the back and side of their house. This proposed overall requested expansion in total exceeds the 15% threshold of the existing Gross Floor Area of 2,378 square feet. The proposed addition comfortably meets minimum front and side yard setbacks for the R-2 zoning district.

Mr. Kozik referred them to the wording of the Section 10.3.5, reproduced above, and provided a general discussion of what the petitioners needed to demonstrate to the Board in order to be granted a special permit. In response, the petitioner argued that there was a precedent set by a similar style structure of another addition from the same architect across the pond which would be consistent to previous approvals by the town. Also, the petitioner referenced several signatures from local residents of the surrounding neighborhood of Parker Street as their personal endorsements to the proposed project. In addition, the petitioner provided several illustrations of the proposed additions in an attempt to show how it would blend into the surrounding property and would be in harmony with the neighborhood.

With no further input, Mr. Hoffman made a motion to close the public hearing. Mr. Robb 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. The Petitioners seek a SPECIAL PERMIT under Sections 8.1.5 and 10.3.5 of the Acton Zoning Bylaw for the construction of a 1,485 square foot addition to the side and back of the building, which would exceed the otherwise permitted 15% increase in square footage. The property is located at 12 Parker Street (Map/Parcel H4-104-3).
2. Based on the Town of Acton's Engineering Department analysis, the proposed addition does not appear to be located on any recorded easement and the proposed addition does not appear to be located within the 100-year floodplain area.
3. The proposed addition is not injurious or detrimental to the neighborhood. This is further evidenced by the endorsements of several neighbors.
4. The granting of such special permit for the proposed design of the addition is consistent to the Master Plan and overall appropriate to the site.
5. The special permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously (3-0) to Grant the Special Permit with the following Condition:

1. The development shall be executed substantially as presented in the most recent plans

used during the June 20, 2019 hearing.

2 The shed in the northerly corner of the lot that is violating setbacks shall be removed or relocated so as to comply.

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



Adam Hoffman



R. Scott Robb