



BOARD OF APPEALS

Hearing #21-07

**DECISION ON PETITION TO GRANT
A SPECIAL PERMIT
WITH RESPECT TO
523 MAIN STREET**

A public hearing of the Acton Board of Appeals was held via video conference on Tuesday, July 6, 2021, at 7:30 PM, on the petition of Timothy Doncaster for a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to construct a master suite addition above the existing garage that measures 600 sq. ft. 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 proposed addition meets rear, side yard setbacks, and maximum height as required under the Zoning Bylaw for the R- 8/4 Zoning District.

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. The overall requested expansion in total exceeds this threshold. The existing gross floor area of the dwelling is 2,808 sq. ft. The proposed construction would add 600 sq. ft., which is a FAR increase of 21.3%. Therefore, the proposed expansion requires a special permit under Section 8.1.5. All numbers have been certified by an architect.

The property is located at 523 Main Street, Map/Parcel E4-85-1, in a residential R-2 zoning district.

The application was distributed for departmental review and comments on May 4, 2021.

The Planning Department submitted a memorandum with the application details and no additional comments.

The Engineering Department submitted a memorandum stating the proposed construction does not appear to be on any recorded easements, nor does it appear to be located within the 100-year floodplain area.

The Water Supply District of Acton submitted a memorandum stating they had no additional comment.

The Fire Department did not provide any written comments.

The Land Use Department-Health Division submitted a memorandum stating the current home is permitted for 4 bedrooms. This allows for 4 bedrooms and 5 “other” rooms that do not meet the definition of a bedroom. The floor plans as shown meet these requirements. It should be noted that a closet will not be allowed in the room identified as a “new Den”.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member and Scott Robb, Member. Staff present included Kristen Guichard, Planning Director and Zoning Enforcement Officer, Kaila Sauer, Assistant Planner, Alicia Burak, Administrative Assistant. The petitioner, Jeff Khem of Sturdy Home Improvement, and the home owner, Timothy Doncaster, were present as well.

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. Kozik opened the hearing and explained how the Board procedurally operates. Mr. Kozik then asked the petitioner to begin.

The applicant and their builder explained that the existing dwelling is a two-story colonial with attached two car garage.

The applicant is proposing a new master bedroom suite to be constructed above the existing garage. There are no changes to the existing footprint, and the proposed master suite addition roofline will be lower than the roofline of the existing dwelling, per the submitted architectural drawings.

The proposed second-floor addition includes a master bedroom, bedroom/office, laundry room and bathroom, and falls within the existing footprint of the home.

The Board reminded the applicant that the Health Division's memo stated the closet in the new "Den" would need to be removed to meet the Health Division's requirements for approval.

Chairman Kozik asked if there were any additional public comments. Public comments were neither submitted during the hearing nor in writing prior to the meeting.

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. Applicant seeks a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to construct a master suite addition above the existing garage that measures 600 sq. ft. on a non-conforming lot. The proposed addition meets rear, side yard setbacks, and maximum height as required under the Zoning Bylaw for the R- 8/4 Zoning District.
2. Under Acton Zoning Bylaw 8.1.5, Petitioners' proposed reconstruction will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.
3. Under Acton Zoning Bylaw 10.3.5.1, Petitioners' proposed construction is consistent with the Master Plan.
4. Under Acton Zoning Bylaw 10.3.5.2, Petitioners' proposed construction is in harmony with the purpose and intent of the Acton Zoning Bylaw.

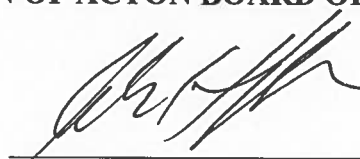
Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **AMENDMENT** to the **SPECIAL PERMIT** with the following conditions:

1. The proposed construction should be completed as substantially presented during the July 6, 2021 hearing.
2. The petitioner complies with the changes required by the Health Division for their approval as noted above.

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
Member

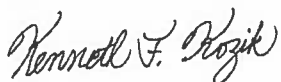


Scott Robb
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