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ACTON, MA**

**BOARD OF APPEALS**

Special Permit 21-09, Amendment 1

**DECISION TO GRANT A SPECIAL PERMIT AMENDMENT  
WITH RESPECT TO  
38 NASH ROAD**

A public hearing of the Acton Zoning Board of Appeals was held on Tuesday, May 3, 2022 at 8:27pm on the petition of David and Wendy Greenhalgh for a Special Permit Amendment under Section 8.1.5 of the Acton Zoning Bylaw to allow for 612 square feet of construction for a new mudroom and pantry on a non-conforming lot. The property is located at 38 Nash Road, Map-Parcel G2-146, in residential zoning district R-2 and Groundwater Protection District Zone 4.

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; the property in question only has 12,500 square feet. The required frontage is 150 feet; the property in question only has 100 feet of frontage. The existing structure and proposed additions comply with the side, rear and front yard Zoning Bylaw setbacks.

Board of Appeals members present at the hearing included: Ken Kozik, Chairman, Adam Hoffman, Member, R. Scott Robb, Member; Staff members Kaila Sauer, Assistant Planner, and Alicia Burak, Administrative Assistant, were present as well as the petitioners, David and Wendy Greenhalgh.

The Applicants were granted a special permit by the Zoning Board of Appeals in 2021 (ZBA 21-09) to construct an addition including a pantry, mudroom and office totaling 719 sq. ft. representing a 29.1% increase in Gross Floor Area.

Mr. Kozik started the discussion at 8:27pm, viewed the contents of the file, and explained how the Board procedurally operates.

The applicants explained that they had been granted a Special Permit by the Zoning Board of Appeals in 2021 to add a mudroom, pantry and office to their existing home at 38 Nash Road. Unforeseen circumstances such as the COVID-19 pandemic and escalating construction costs resulted in the applicants' decision to submit a petition for a Special Permit Amendment (#1) to

construct a smaller addition including a mudroom and pantry (eliminating the previously approved office) than what was originally Granted in 2021.

The proposed square footage of the addition is being decreased from 719 sq. ft. to 612 sq. ft. for a new FAR of 24.8%

The applicants stated that no other changes are being requested, and that the new construction complies with all Zoning Bylaw setbacks and maximum height requirements for the R-2 Zoning District.

The board reviewed the updated architectural drawings and supporting documents submitted by the applicants.

Mr. Hoffman noted the 2021 Land Use Department – Health Divisions’ memo regarding the 3-bedroom permit limit.

The memos issued by the Building, Fire, Engineering, and Planning Department stated no concerns with the application.

Mr. Hoffman motioned to close ZBA21-09 Amendment 1 at 8:33PM. Mr. Robb seconded the motion. Roll Call Vote: Ken Kozik- Aye, Adam Hoffman-Aye, Scott Robb- Aye.

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 Amendment under Section 8.1.5 of the Acton Zoning Bylaw to allow for smaller addition to an existing single-family residential dwelling located on a non-conforming lot. The existing structure and proposed additions comply with the side, rear and front yard Zoning Bylaw setbacks. The FAR is 24.8%. The property is located at 38 Nash Road, Map/Parcel G2-146, in a Residential (R-2) Zoning District
2. Under Acton Zoning Bylaw 8.1.5, Applicants’ proposed amendment will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.
3. Under Acton Zoning Bylaw 10.3.5.1, Applicants’ proposed amendment is consistent with the Master Plan.
4. Under Acton Zoning Bylaw 10.3.5.2, Applicants’ proposed amendment 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 (3-0) to **Grant** the Special Permit Amendment (1) with the following Conditions:

- Be built substantially as shown and presented in the plans at the ZBA hearing on May 3, 2022.
- The Original Decision, including all their waivers, required plan modifications, and conditions are incorporated by reference and expressly restated herein as requirements of

this Amendment Decision. Except as modified herein, the Original Decision, the Plan approved thereunder shall remain in full force and effect.

**TOWN OF ACTON ZONING BOARD OF APPEALS**

Kenneth F. Kozik, Chairman

Adam Hoffman

  
R. Scott Robb

this Amendment Decision. Except as modified herein, the Original Decision, the Plan approved thereunder shall remain in full force and effect.

**TOWN OF ACTON ZONING BOARD OF APPEALS**

  
Kenneth F. Kozik, Chairman

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**TOWN OF ACTON ZONING BOARD OF APPEALS**

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*Adam Hoffman*  
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Kenneth F. Kozik, Chairman

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Adam Hoffman

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R. Scott Robb