



RECEIVED
OCT 23 2012

TOWN CLERK, ACTON

DECISION #12-03

DECISION ON THE PETITION OF KEVIN MACNEIL, 68 CONCORD ROAD

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, September 10, 2012 on the Petition of Kevin MacNeil for a **SPECIAL PERMIT** under Section 8.3.2 and Section 8.3.3 of the Zoning Bylaws to allow the construction of a second floor and the horizontal extension of an existing non-conforming structure located at 68 Concord Road. Map F4/Parcel 8-11.

Present at the hearing were Jonathan Wagner, Acting Chairman; Marilyn Peterson, Member and Adam Hoffman, Alternate. Also present were Scott Mutch, Zoning Enforcement Officer; Kim Gorman, Acting Board of Appeals Secretary; the Petitioner and a neighbor, Martha Marks.

Jonathan Wagner opened the hearing and read the contents of the file. The file contained an Interdepartmental Communication from the Engineering Department noting that the proposed construction does not appear to be on any recorded easements, is not within a floodplain and would require a street cut permit if any construction was within a right of way. (It is not.) The file also contained a Memo from the Health Department noting that there would need to be a tie-in from the renovated structure to the existing septic system if the structure contained water and sanitation facilities. (The submitted plans do not indicate water and sanitation facilities.)

Kevin MacNeil explained that the purpose of the Special Permit was to allow the expansion of the existing concrete shed by (a) adding an "L-shaped" addition to the existing structure which would extend the structure horizontally approximately 10 feet along the front (from 22 feet to 32 feet) and adding approximately 10 feet on to the rear of the structure for a distance of 32 feet, resulting in a renovated structure having dimensions of approximately 32 feet by 23 feet, and (b) adding a second story to the (entire) renovated structure, all in accordance with plans submitted with the Petition. The present structure, which is set back approximately 18 feet from the street at its closest point, is nonconforming because it does not comply with the present front yard setback requirement of 30 feet in an R-2 Residential District. The 10 foot horizontal (front) portion of the addition would be set back a greater distance than the existing nonconforming setback, therefore not increasing the nonconformity. The side yard and rear yard setbacks comply with current zoning requirements in an R-2 Residential District.

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

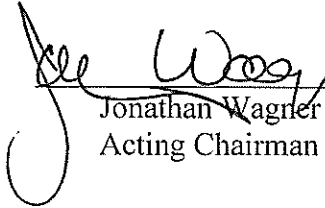
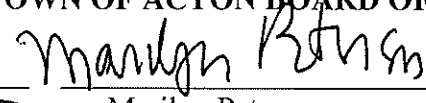
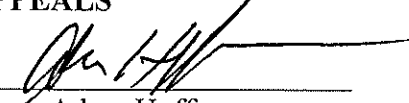
1. The Petitioner seeks a SPECIAL PERMIT under Section 8.3.2 and Section 8.3.3 of the Zoning Bylaw to allow the extension of an existing structure by constructing an addition which would (a) extend the front portion of the existing structure horizontally approximately 10 feet from 22 feet to 32 feet and extend the rear portion of the existing structure approximately 10 feet for a distance of 32 feet, resulting in a renovated structure having dimensions of approximately 32 feet by 23 feet, and (b) add a second story to the (entire) renovated structure.
2. The existing structure is nonconforming because it does not comply with present minimum front yard setback requirements in an R-2 Residential District.
3. The front portion of the addition will extend horizontally from the existing structure and will be no further into the front setback area than exists presently; and therefore the front portion of the addition does not increase the existing nonconformity.
4. The existing structure and the rear portion of the addition comply with present minimum side yard setback requirements in an R-2 Residential District.
5. The proposed addition otherwise conforms to all the dimensional requirements of the Bylaws.
6. The proposed addition is consistent with the Master Plan and is in harmony with the general purpose and intent of the Zoning Bylaws.
7. The proposed addition otherwise complies with the applicable requirements of the Zoning Bylaws.
8. The proposed addition is appropriate for the site and will not be more detrimental or injurious to the neighborhood than the existing nonconforming condition.

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**:

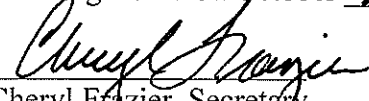
- A. The proposed addition shall be built substantially in accordance with the Plans submitted with the Petition and contained in the file.
- B. Any water or sanitation facilities to be used in the addition shall be approved by the Board of Health.

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

		
Jonathan Wagner Acting Chairman	Marilyn Peterson Member	Adam Hoffman Alternate Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on October 23, 2012.


Cheryl Frazier, Secretary
Board of Appeals

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.