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BOARD OF APPEALS

Hearing #15-15

DECISION ON THE PETITION OF JOHN ERICKSON
FOR A VARIANCE FROM THE MINIMUM
FRONT YARD SETBACK REQUIREMENT OF SECTION 5
AT 155 SUMMER STREET

The Acton Board of Appeals (the "Board") held a duly noticed scheduled public hearing on December 7, 2015, with regard to the Petition of John Erickson for a **Variance** from the 45 foot minimum front yard setback requirement of Section 5 of the Zoning By-Law to allow for the construction of a single family home in a newly created lot at 155 Summer Street. Map F1/Parcel 15.

Present at the hearing were Jonathan Wagner, Chairman; Board Members Richard Fallon and Adam Hoffman; Roland Bartl, Zoning Enforcement Officer; Robert Hummel, Assistant Town Planner; Board Secretary Cheryl Frazier; the Petitioner, John Erickson; Bruce Ringwall, Engineer, and Jeff D'Agostine, builder, representing the Petitioner; and members of the public.

Chairman Wagner opened the meeting, and read the contents of the file into the record, including interdepartmental memos from the Engineering and Planning Departments. In particular, paragraph 4 of the Engineering Department memo detailed three actions which should occur prior to a building permit being issued if the variance were granted. The Planning Department in its memo did not object to the variance request provided that the Engineering Department memo requirements were complied with.

Mr. Ringwall on behalf of the petitioner stated that the applicant wished to split the existing parcel into

two separate lots and to construct one new single family dwelling on each. The newly created lots would comply with area and frontage requirements. An ANR plan was approved by the Planning Department. The variance request concerns Lot 1, which has a steep slope in the back and sandy soils, as well as wetlands in the back. The variance request is for a six foot differential in the front setback, that is, that the dwelling be permitted to be built 39 feet from the right of way instead of the required 45 feet. The 75 foot "no structure" setback from the wetland at the toe of the slope in the back of the lot coupled with the 45 foot front setback creates a limited envelope for the dwelling. Mr. Ringwall pointed out that a number of other homes in the area are closer to the road than 45 feet.

Mr. Cronin of Summer Street requested clarification as to which lot was involved, and Mr. Ringwall replied that two separate lots would be created, with only one dwelling relying on the variance.

The hearing was closed.

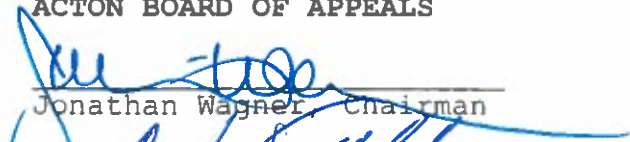
The Board finds that this request is consistent with the Master Plan, and that desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent and purpose of the Bylaw. Furthermore, the Board finds that owing to circumstances relating to the soil conditions and topography of the lot and especially affecting this lot, but not affecting generally this zoning district, a literal enforcement of the provisions of the Bylaw would involve substantial hardship to the petitioner.

The Board votes unanimously 3-0 to **GRANT** this **VARIANCE** (from 45 feet to 39 feet) from the minimum front yard setback for hearing #15-15, with the following conditions:

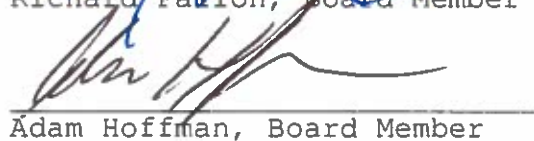
1. That the construction conform to the plans submitted, including the Zoning Variance plot plan;
2. That the Petitioner comply with paragraph 4 of the November 6, 2015 Engineering Department interdepartmental memo, which provides as follows, namely, that if the variance is approved, prior to a building permit being issued the following actions must occur:

- a) Two street cut permits obtained, one for the driveway and one for services.
- b) The ANR plan which split the lot in two must be recorded at the Registry of Deeds;
- c) After the ANR plan is recorded, the 155 Summer Street address and assigned parcel ID must be approved by the Engineering Department after it has been reviewed by other Town departments, specifically Fire and Police departments.

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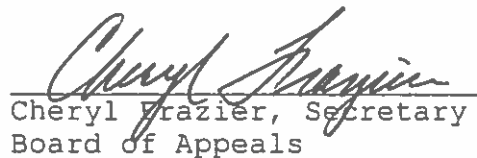

Jonathan Wagner, Chairman


Richard Fallon, Board Member


Adam Hoffman, Board Member

Dated:

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on January 5, 2016.


Cheryl Frazier, Secretary
Board of Appeals

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 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.

Under Bylaw Section 10.5.7, any rights authorized by a variance which are not exercised within one year from the date of the grant of such variance shall lapse and may be reestablished only after notice and a hearing under Section 10 of the Bylaw.