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**DECISION #16-03**

**DECISION ON THE PETITION OF DMITRY BYKHOVSKY, 178 GREAT ROAD**

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, June 6, 2016 on the Petition of Dmitry Bykhovsky for a **SPECIAL PERMIT** under Section 8.3.3 of the Zoning Bylaws to extend an existing nonconforming building horizontally within the dimension of its existing nonconformity. 178 Great Road, Map F4, Parcel 10.

Present at the hearing were Jonathan Wagner, Chairman; Richard Fallon, Member; and Adam Hoffman, Member. Also present were Kimberly Bicker, Board of Appeals Secretary; Kristen Guichard, Assistant Town Planner; Robert Hummel, Assistant Town Planner; the Petitioner, Attorney Louis Levine representing the Petitioner and the Petitioner's architect.

Chairman Wagner opened the hearing and read the contents of the file. In addition to the Petition (which included a Site Plan, original and updated (as of 6/3/2016) architectural and schematic plans), the file contained an Interdepartmental Communication from Kristen Guichard, Assistant Town Planner, explaining that the site now consists of two buildings, one in the rear and one at the front of the lot on Great Road, and that the present front building is nonconforming because of insufficient setbacks on the front and side. The Petitioner proposes to raze the rear building and totally renovate and expand the front building for use as an automobile showroom. The proposed extension of the (front) building will comply with rear setback requirements and extend the building horizontally within the dimension of its existing nonconformity.

Chairman Wagner asked the Petitioner to explain why he was seeking the Special Permit. The Petitioner's architect explained that the purpose of the Special Permit was to permit the renovation of the site by razing one of the existing buildings and expanding the remaining (front) building for use as an automobile showroom. The Petitioner currently has a sales location in Boxborough doing business as Alpha Cars and is seeking to open a new location in Acton on this site. He further stated that he had engaged in extensive discussions with the Design Review Board, which had essentially supported the plans for renovation with some minor changes, which were in fact adopted and incorporated in the revised plans recently submitted.

The Board members discussed whether the proposed expansion constituted a “horizontal extension” as that term is used in the applicable language in Section 8.3.3. Board members concluded the issue was close but acceptable as recommended by the Planning Department. The Board members all agreed that the proposed redesign would not be substantially more detrimental to the neighborhood than the existing structures.

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 8.3.3 of the Zoning Bylaws to allow the horizontal extension of an existing nonconforming building.
2. The site is located in a Limited Business District.
3. The building to be extended and expanded is nonconforming because of insufficient setbacks on the front and side.
4. The proposed extension and expansion of the existing building will not increase the setback nonconformity.
5. The proposed extension will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.
6. The proposed addition is:
  - (a) consistent with the Master Plan and is in harmony with the general purpose and intent of the Zoning Bylaws;
  - (b) appropriate for the site and will not be more detrimental or injurious to the neighborhood;
  - (c) otherwise complies with the applicable requirements of the Zoning Bylaws.


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**:

1. The proposed extension of the building shall be substantially in accordance with the most recent Plans submitted with the Petition and contained in the file.
2. Final landscaping to be reasonably similar to landscaping depicted on the most recent Plans submitted with the Petition and contained in the file.

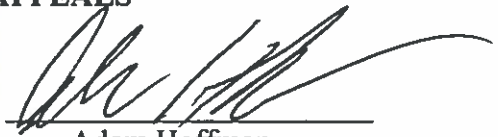
3. Subject to issuance of Land Disturbance Permit from the Acton Conservation Commission.
4. Subject to approval of the Acton Conservation Commission.
5. Petitioner to construct a sidewalk along the entire frontage (Great Road) of the lot, or alternatively at his option, make standard sidewalk contribution to the Acton Sidewalk Fund.
6. The building will be used only as a sales showroom and related administrative purposes and not for mechanical repairs, servicing or maintenance.

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  
Chairman

  
Richard Fallon  
Member

  
Adam Hoffman  
Member

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

\_\_\_\_\_  
Kimberly Bricker, 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 South 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.