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TOWN CLERK
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DECISION #17-04

**DECISION ON PETITION FOR GRANT OF SPECIAL PERMIT WITH RESPECT TO
21 MINUTEMAN ROAD**

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, March 27, 2017 on the Petition of Mr. and Ms. Faubert for a **SPECIAL PERMIT** under Section 8.1.5 of the Zoning Bylaws to rebuild an existing garage with a second floor above on a non-conforming lot. The new second floor addition will not increase the existing non-conformity. The house is located at 21 Minuteman Road.

Present at the hearing were Ken Kozik, Member and acting Chairman; Suzanne Buckmelter, Member; and Adam Hoffman, Member. Also present were Roland Bartl, Planning Director, and Robert Hummel, Assistant Town Planner. Also present at the hearing were the petitioners Mr. and Ms. Faubert; and Mr. Houser, Project Contractor.

Mr. Kozik opened the public hearing at 7:35 PM. Mr. Faubert explained the background for their Special Permit request for the Board. The Fauberts requested a Special Permit, which would include expansion for a rebuilt garage and a second floor above for living space. The applicant understood that they have a non-conforming lot because of the lack of frontage and square footage requirements in the R-2 zoning district. They understood that any expansion over 15% of the existing Gross Floor Area would require a Special Permit from the ZBA.

Mr. Kozik asked the applicant what percentage of Gross Floor Area they were requesting. The applicant did not know the exact percentage of Gross Floor Area that they were requesting. Mr. Bartl clarified that the Planning Department calculated that the applicant would be expanding 57.6% towards the current Gross Floor Area, and that this number is without counting the current garage into the existing floor area as prescribed under the zoning bylaw. If the garage were counted as part of existing floor area, he stated the proposed expansion would probably be about 24% as stated in the application.

Ms. Faubert said that she feels the expansion will fit in with the surrounding houses on Minutemen Road. Mr. Houser, the project contractor, explained the 5 foot bump out that is shown on the plans. Mr. Bartl explained that the Planning Department had a question about the bump out in regards with meeting the 10 foot side setback. Mr. Bartl suggested, "Prior to issuance of a building permit, a revised plot plan shall be submitted showing the 5- foot bump

out on the easterly side of the garage in compliance with the minimum 10-foot setback.”

Mr. Kozik opened the floor for public comments. Judy Carbonier of 34 Newtown Road was in support of the Special Permit request and thought it was a wonderful project.

Mr. Hoffman moved to close hearing #17-04 at 7:45PM. Ms. Buckmelter seconded the motion. The motion carried unanimously.

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 8.1.5 of the Zoning Bylaws to rebuild an existing garage with a second floor above on a non-conforming lot.
2. The property is located at 21 Minuteman Road.
3. The proposed additions cannot be allowed without a Special Permit, because the pre-existing non-conforming lot has insufficient area and frontage to meet requirements specified in the Acton Bylaws.
4. The proposed additions will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.
5. The proposed additions are:
 - (a) consistent with the Master Plan and 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 comply with the applicable requirements of the Zoning Bylaws.
6. The Board of Appeals found the application met all the mandatory findings under section 10.3.5 for a Special Permit.

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**:

- Must be in compliance with most recently submitted plans filed on March 27, 2017, except as may be necessary to meet the side yard requirement.
- Prior to issuance of a building permit, a revised plot plan shall be submitted showing the 5-foot bump out on the easterly side of the garage in compliance with the minimum 10-

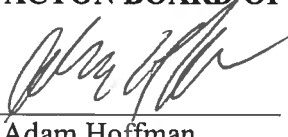
foot setback.

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



Ken Kozik
Chairman

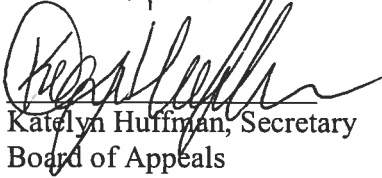


Adam Hoffman
Member



Suzanne Buckmelter
Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on April 19, 2017.



Katelyn Huffman, 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.