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## BOARD OF APPEALS

Hearing #19-13

### DECISION ON PETITION FOR A SPECIAL PERMIT WITH RESPECT TO 10 Brabrook Road, Acton, MA

A public hearing of the Acton Board of Appeals was held on Monday, August 5, 2019, at 7:45 PM in the Acton Town Hall on the petition of Rachel Shanley for a Special Permit under Section 8.1.5 of the Acton Zoning Bylaw to allow the construction of a single car garage on a nonconforming lot. The new construction exceeds the 15% allowed under Section 8.1.4 with respect to the Gross Floor Area of the existing structure.

Acton Zoning Bylaw 8.1.4 States:

*Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots - One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15 percent of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that LOT became nonconforming, whichever is later.*

Acton Zoning Bylaw 8.1.5 States:

*In all other cases, the Board of Appeals may, by special permit, allow such construction of, or extension, alteration or change to a Single- or Two-FAMILY residential STRUCTURE on a nonconforming LOT, including the reconstruction anywhere on the lot of a larger structure than otherwise allowed under Section 8.1.3, where it determines either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.*

The owner proposes the addition of a single car garage to the westerly side of the house. The subject property is classified as a nonconforming lot based on insufficient lot area. The required lot area and minimum frontage in the R-8 Zoning district is 80,000 square feet and 200 feet respectively. The property in question has 61,574+/- square feet of area and approximately 275+/- feet of frontage along the improved way of Brabrook Road.

The Gross Floor Area of the existing structure is 2,160 square feet. The new construction being proposed is 425 square feet, which represents a 19.6% increase in Gross Floor Area and exceeds the 15% Gross Floor Area allowed by Acton Zoning Bylaw 8.1.4.

According to the Acton Planning Department, the proposed addition appears to meet the minimum rear and side yard setbacks for the R-8 zoning district.

The Acton Water Department had “NO COMMENT” as the proposed construction affects neither water demand nor existing water service.

The Acton Health Division has “No Comment” as the new construction does not encroach on the existing septic system.

Board of Appeals members present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, R. Scott Robb, Member; Kristen Guichard, Senior Town Planner, and Vivian Birchall, Administrative Assistant were in attendance as well as the petitioner, Rachel Shanley and her partner, Matt Fuhmeister.

Mr. Kozik opened the hearing, viewed the contents of the file and explained how the Board procedurally operates.

The petitioner, Rachel Shanley, explained her intent to construct an addition consisting of a single-car attached garage. In addition to providing storage for a car, it would provide concealed space for garbage bins, children’s bikes, and other equipment that is often stored outside, further enhancing the aesthetic quality of the property. Therefore, Ms. Shanley believes the addition is not detrimental to the neighborhood and considers it to be an aesthetic improvement.

Ms. Shanley stated her house is among the smaller houses in the neighborhood and the addition would bring it more in line with the scale of the neighboring homes. The addition would also be congruous with the style of the existing home and others in the neighborhood, with a low sloping roofline and tongue and groove vertical cedar siding.

Mr. Hoffman moved and Mr. Robb seconded to close the public hearing. The public hearing was closed at 8:21 pm.

During deliberation, the Board expressed their conclusion from the hearing, stating they would approve the Special Permit. Mr. Hoffman moved to approve the Special Permit with a second from Mr. Scott. The Board unanimously (3-0) voted to approve the Special Permit.

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 Sections 8.1.5 of the Acton Zoning Bylaw to construct a new, attached single-car garage on a non-conforming lot. The property is located at 10 Brabrook Road, Acton; Map/Parcel G5-1.
2. The proposed reconstruction is not more detrimental to the neighborhood.
3. The proposed reconstruction meets the mandatory findings of section 10.3 of the 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 with the following Conditions:

- The construction should be executed substantially as presented in the most recent plans submitted during the August 5, 2019 meeting.

Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within 20 days after this decision is filed with the Acton Town Clerk.

**TOWN OF ACTON BOARD OF APPEALS**



The image shows three handwritten signatures in black ink. From left to right: 1) Kenneth F. Kozik, Chairman, whose signature is a stylized 'K' and 'P'; 2) Adam Hoffman, whose signature is a stylized 'A' and 'H'; 3) R. Scott Robb, whose signature is a stylized 'R' and 'S'. Below each signature is a printed name: Kenneth F. Kozik, Chairman; Adam Hoffman; and R. Scott Robb.