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## BOARD OF APPEALS

Hearing #19-14

### DECISION ON PETITION FOR A GRANT OF A VARIANCE WITH RESPECT TO 8 Post Office Square Behind

A public hearing of the Acton Board of Appeals was held on Monday, December 9, 2019, at 7:05PM in Acton Town Hall on the petition of the Acton Water District for Variance relief from Section 5 of the Zoning Bylaw to construct a water treatment plant on a non-conforming lot within the ARC zoning district. ARC (Agricultural, Recreation, Conservation) District requires 20 feet of frontage. The parcel in question has no frontage. All other dimensional requirements of the Zoning Bylaw can be met.

The property is located on lot E4-47-1 within the ARC zoning district.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, Scott Robb, Member, Kristen Guichard, senior town planner and Vivian Birchall, administrative assistant to the Board of Appeals and the Planning Division. The petitioner (Water Supply District of Acton) was also present.

Mr. Kozik opened the hearing, explained how the Board procedurally operates and asked the petitioner to begin.

The petitioner explained that they are requesting variance relief from the Zoning Bylaw to construct a water treatment facility at 8 Post Office Square-Behind. The parcel is land-locked, and does not have 20 feet of frontage as required by the Zoning Bylaw, which triggered the petitioner's application for a Variance.

In March 1998, 8 Post Office Square granted the Acton Water District an access easement to the parcel in question. The Zoning Board of Appeals granted a Variance for an un-paved driveway to access 8 Post Office Square-Behind, but made no mention of granting a variance for the

construction of a new water treatment plant. In June of 1998, a building permit was issued for the construction of the pump station that currently exists on the property. There are no other permitting records on file for the existing pump station.

The petitioner said the construction of the water treatment plant is critical to the District's mission of supplying water that is safe for human consumption and meets all regulatory requirements of the Safe Drinking Water Act. The new water treatment plant will ensure that Acton has access to potable water for current and future development as well as adequate supply for fire protection throughout the District's service area.

After asking the public for any additional input, the Board of Appeals moved to close the hearing and proceed with deliberations. After discussing the Petitioner's request for a Variance, the Board voted unanimously (3-0) to approve the Variance.

In making a decision for Variance relief, the Zoning Board of Appeals must take into account the Mandatory findings in section 10.5.5 of the Zoning Bylaw:

*10.5.5.1 That owing to circumstances relating to the soil conditions, shape, or topography of the LOT or STRUCTURES in question and especially affecting such LOT or STRUCTURES but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Petitioner.*

*10.5.5.2 That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw. In deciding whether the requested variance nullifies or substantially derogates from the intent or purpose of this Bylaw, the Board of Appeals shall consider whether the granting of such variance is consistent with the Master Plan.*

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

1. The Petitioners seek a VARIANCE under Sections 10.5.5.1 and 10.5.5.2 of the Acton Zoning Bylaw for the construction of a new water treatment plant on lot E4-47-1 in the ARC Zoning District.
2. There are circumstances relating to the shape of the lot that were subject of this hearing that do not also affect lots or structures generally in the zoning district in which it is located.
3. Because of these circumstances, literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the Petitioner.
4. That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw.

5. The granting of such variance is consistent with the Master Plan.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **VARIANCE**.

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**

  
Kenneth F. Kozik, Chairman

  
Adam Hoffman

  
Rob Scott  
P. Scott ROBB.

Under Bylaw Section 10.5.7, any rights authorized by a variance which is 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.