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ACTON, MA**

BOARD OF APPEALS
Hearing #21-10

**DECISION ON PETITION TO GRANT
A SPECIAL PERMIT
WITH RESPECT TO
13 INDEPENDENCE ROAD**

A public hearing of the Acton Board of Appeals was held via video conference on Tuesday, August 3, 2021, at 7:00 PM, on the petition of Kim and Kevin Canuette Grimaldi for a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to construct a first floor addition which would include a master bedroom suite, family room/home office, laundry room, mudroom, garage entry and two-car attached garage on a non-conforming lot.

The subject property is classified as a non-conforming lot due to insufficient lot area. The required lot area in the R-4 Zoning District is 40,000 square feet. The lot contains 37,897.2 square feet. The existing structure and proposed additions comply with the side, rear and front yard setbacks.

The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Sections 8.1.5 and 10.3.5. The proposed addition meets rear, side yard setbacks, and maximum height as required under the Zoning Bylaw for the R- 8/4 Zoning District.

Zoning Bylaw Section 8.1.4 allows for extensions or alterations by-right if they do not increase the overall size of the structure by more than 15% of the existing Gross Floor Area. The overall requested expansion in total exceeds this threshold. The existing gross floor area of the dwelling is 2,857 sq. ft. The proposed construction would add 2,904 sq. ft., which is a FAR increase of 101.64%. Therefore, the proposed expansion requires a special permit under Section 8.1.5. All numbers have been certified by an architect.

The property is located at 13 Independence Road, Map/Parcel I3-122, in a residential R-4 zoning district.

The application was distributed for departmental review and comments on May 14, 2021.

The Planning Department submitted a memorandum with the application details and no additional comments.

The Engineering Department submitted a memorandum stating the proposed construction does not appear to be on any recorded easements, nor does it appear to be located within the 100-year floodplain area.

The Engineering Department did not provide any written comments.

The Fire Department did not provide any written comments.

The Land Use Department-Health Division submitted a memorandum stating the current home connected to the public sewer system and has no additional comments.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member and Scott Robb, Member. Staff present included Kristen Guichard, Planning Director and Zoning Enforcement Officer; Kaila Sauer, Assistant Planner; Alicia Burak, Administrative Assistant. The applicants, Kim and Kevin Canuette Grimaldi, and their architect, Jeff Kehm, were also present.

Applicable Bylaws:

8.1.4 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.

8.1.5 In all other cases, the Board of Appeals may, by special permit, allow such reconstruction 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.

10.3.5 Mandatory Findings by Special Permit Granting Authority – Except for a Site Plan Special Permit, the Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed USE:

10.3.5.1 Is consistent with the Master Plan.

10.3.5.2 Is in harmony with the purpose and intent of this Bylaw.

10.3.5.3 Will not be detrimental or injurious to the neighborhood in which it is to take

place.

10.3.5.4 Is appropriate for the site in question.

10.3.5.5 Complies with all applicable requirements of this Bylaw.

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

The applicants and their architect described their current dwelling, which is a single-story home that does not include a garage. Their oldest son uses prosthetics and has some difficulty maneuvering around the home, so they would like to expand the home to improve handicap accessibility and add a two-car attached garage with room behind to accommodate for a new, modest master bedroom suite and home office. The proposed construction also includes a small mudroom, and a new front entry with handicap accessible ramp.

The applicants noted that although the proposed new construction exceeds the FAR limit by 101.64%, much of that is due to the new foundation, which is included in FAR calculations.

Jeff Kehm, from Kehm Architects, presented architectural drawings of the existing dwelling and proposed construction. Care was taken to minimize visual impact from a street view, and the design is consistent with the applicants' stated preference of remaining in a single-story, handicap accessible dwelling for the foreseeable future.

The design and exterior finishes of the proposed construction are consistent with the existing dwelling as illustrated in the drawings presented by Mr. Kehm.

Chairman Kozik asked if there were any additional public comments. Public comments were neither submitted during the hearing nor in writing prior to the meeting.

With no further input, Mr. Hoffman made a motion to close the public hearing. Mr. Robb seconded the motion. The Board unanimously voted to close the hearing.

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

1. Applicant seeks a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to construct a first floor addition which would include a master bedroom suite, family room/home office, laundry room, mudroom, garage entry and two-car attached garage on a non-conforming lot. The proposed construction meets rear, side yard setbacks, and maximum height as required under the Zoning Bylaw for the R- 8/4 Zoning District. The FAR limit is exceeded by 101.64%. The property is located at 13 Independence Road, Map/Parcel I3-122, in a residential R-4 zoning district.
2. Under Acton Zoning Bylaw 8.1.5, Applicants' proposed construction will not be substantially more detrimental to the neighborhood than the existing non-conforming structure.

with the Master Plan.

4. Under Acton Zoning Bylaw 10.3.5.2, Applicants' proposed construction is in harmony with the purpose and intent of the Acton Zoning Bylaw.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **AMENDMENT** to the **SPECIAL PERMIT** with the following conditions:

1. The proposed construction should be completed as substantially presented during the August 3, 2021 hearing.

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
Member

Scott Robb
Member

3. Under Acton Zoning Bylaw 10.3.5.1, Applicants' proposed construction is consistent with the Master Plan.

4. Under Acton Zoning Bylaw 10.3.5.2, Applicants' proposed construction is in harmony with the purpose and intent of the Acton Zoning Bylaw.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **AMENDMENT** to the **SPECIAL PERMIT** with the following conditions:

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