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BOARD OF APPEALS

Hearing #22-08

DECISION ON PETITION FOR A GRANT OF A VARIANCE WITH RESPECT TO 27 TUTTLE DRIVE

A public hearing of the Acton Board of Appeals was held via video/phone conference on September 7, 2022, and on October 12, 2022, on the petition of Matthew Liebman under Section 10.5 of the Acton Zoning Bylaw for reconstruction of a porch into the front-yard setback. The property is located in the R-2 zoning district (Map/Parcel G2/107).

Present at the video/phone hearing were Ken Kozik, Chairman, R. Scott Robb, Member, David Schena, Associate Member and Kristen Guichard, Acton Planning Department. Also present were the Petitioner and his spouse. Adam Hoffman, Member and Vicki Tardif, Associate Member, were not present.

Mr. Kozik opened the hearing, explained how the Board procedurally operates and explained that in making a determination for variance relief, the Board must make the mandatory findings found under Zoning Bylaw section 10.5.5.1 and 10.5.5.2, reproduced below for the convenience of the reader.

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.

Mr. Kozik asked the Petitioner to begin. The Petitioner stated that he is requesting relief from Section 5 of the Zoning Bylaw to reconstruct a front porch in the front yard setback. The R-2 Zoning district requires a minimum 30-foot front setback from the property line. The Petitioner is proposing to reconstruct the existing porch approximately 27 feet from the property line,

approximately 3 feet into the setback. The existing porch and all other structures on the lot comply with the setback requirements.

Although the Petitioner was not able to articulate any circumstances relating to the soil conditions, shape, or topography of the LOT in question, the Petitioner argued that the shape of the STRUCTURE was in issue and cause to grant the relief requested. More specifically, the Petitioner argued that the house and proposed porch were not horizontal to the street, i.e., the house and proposed porch were at an angle with respect to street.

With no further input, Mr. Robb made a motion to close the public hearing. Mr. Schena 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. The Petitioners seek a VARIANCE under Section 10.5.5 of the Acton Zoning Bylaw for reconstruction of a porch into the front-yard setback. The property is located in the R-2 zoning district (Map/Parcel G2/107).
2. There are no circumstances relating to the soil conditions, shape, or topography of the LOT in question.
3. There are no circumstances relating to the soil conditions, shape, or topography of the STRUCTURE in question. The house and proposed porch being at an angle to the street is a personal design choice.
4. Literal enforcement of the provisions of this Bylaw would not involve substantial hardship, financial or otherwise, to the Petitioner.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted to **DENY** the VARIANCE, on a vote of two (Robb and Schena) for a grant and one (Kozik) for a denial.

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


David Schena


R. Scott Robb