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BOARD OF APPEALS

Hearing #23-03

**DECISION ON PETITION TO GRANT
A SPECIAL PERMIT
WITH RESPECT TO
247 MAIN STREET**

A public hearing of the Acton Board of Appeals was held on Tuesday, August 1, 2023 and continued to Tuesday, October 3, 2023 on the petition of Jaclyn Saltzman and Jonathan Lehmann for a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to allow for an addition to an existing single-family residential dwelling located on a non-conforming lot.

The property is located at 247 Main Street, Map/Parcel H3-B-74, in a Residential (R-2) and Groundwater Protection District (Zone 4).

The subject property is classified as a non-conforming lot due to insufficient frontage. The required frontage for the R-2 Zoning District is 150 feet. The lot only has 115.67 feet of frontage. The existing structure and proposed additions comply with the side, rear and front yard setbacks. The existing structure's side setback is 39.3 feet, and the proposed structure's side setback is 17.8 feet.

The applicants are requesting approval for an in-law apartment to meet the needs of Jaclyn's parents.

The Gross Floor Area of the existing dwelling is 2,565 sq. ft. 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, or 384.8 sq. ft. in this case. The proposed new addition would add an additional 1,326 sq. ft., which represents a 51.7% increase to the existing dwelling. Therefore, the proposed expansion requires a special permit under Section 8.1.5.

The Zoning Board of Appeals has the authority to grant the requested special permit under Bylaw Sections 8.1.5 and 10.3.5, if the proposed additions meet rear, side yard setbacks, and maximum height as required under the Zoning Bylaw for the R- 2 and Zone 4 Districts.

The application was distributed for departmental review and comments on July 5th, 2023.

The Health Division submitted a written document noting the existing dwelling is on Town Sewer, and they have no other concerns.

No additional divisional/departmental written comments were submitted.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, and Scott Robb, Member. Staff present included Kaila Sauer, Senior Planner, and Alicia Burak, Administrative Assistant. The applicants, Jaclyn Saltzman and Jonathan Lehmann, were present as well their architect, Oliver Orwig, and builder, Paul Alaine.

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 petitioners to begin.

Ms. Saltzman explained that she and her husband are proposing to build an addition to their existing dwelling that will in essence become an in-law apartment for Ms. Saltzman's parents. Ms. Saltzman stated she and her husband will consider using the space for a similar function for aging in place themselves in the future.

At the August 1, 2023 public hearing, Ms. Saltzman submitted rough plans that the Board deemed inadequate and asked the applicant to consider continuing the hearing to a later date to allow time to develop and submit detailed architectural drawings. The applicant agreed to continue the hearing to 10/3/23. The applicant hired an architect and submitted a formal set of detailed architectural drawings that were presented during the meeting on 10/3/23.

Mr. Orwig, the architect, reviewed the detailed plans with the board. Mr. Orwig pointed out the proposed addition is to be built on piers and noted that the existing dwelling is close to commercial buildings. Mr. Orwig also provided photos of surrounding homes to demonstrate that the proposed addition fits nicely within the neighborhood.

Mr. Orwig noted that the existing dwelling plus the proposed addition will total approximately 2,800 sq. ft., which does not include the existing basement.

Chairman Kozik asked if there were any additional public comments; none were submitted.

With no further input, Mr. Hoffman motioned at 7:48PM to close ZBA23-03. Scott Robb seconded the motion. Roll Call Vote: Ken Kozik-Aye, Scott Robb-Aye, Adam Hoffman-Aye.

The Board unanimously (3-0) 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 allow for an in-law addition to an existing single-family residential dwelling located on a non-conforming lot. The existing structure and proposed addition complies with the side, rear and front yard Zoning Bylaw setbacks. The gross floor area increase is 51.7%. The property is located at 247 Main Street, Map/Parcel H3-B-74, in a Residential (R-2) and Groundwater Protection District (Zone 4).
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.
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 **SPECIAL PERMIT** with the following

conditions:

1. The proposed construction shall be completed as substantially presented during the October 3, 2023 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

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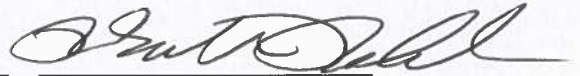
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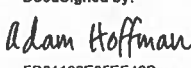
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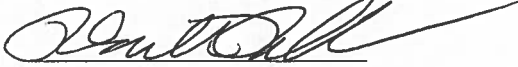
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TOWN OF ACTON BOARD OF APPEALS

Kenneth F. Kozik
Chairman

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Adam Hoffman
Member



Scott Robb
Member