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TOWN OF ACTON
PLANNING DEPARTMENT

BOARD OF APPEALS

Hearing #23-07

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

A public hearing of the Acton Board of Appeals was held on Monday, December 5, 2023, at 7:35PM on the petition of the Water Supply District of Acton for Variance relief from Section 5 of the Zoning Bylaw to construct a PFAS water treatment building 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. The property resides in the Groundwater Protection Zone 1, which requires 90% of the LOT to remain as Open Space. 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.

The Water Supply District of Acton applied for and was Granted a Variance in 2019 (ZBA #19-14) to construct a water treatment plant. The proposed PFAS treatment building is in addition to the existing water treatment plant.

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, Scott Robb, Member, Kristen Guichard, Planning Director, and Alicia Burak, Administrative Assistant to the Board of Appeals and the Planning Department. The petitioner (Water Supply District of Acton) was also present.

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

Matthew Mostoller, District Manager for the Water Supply District of Acton, presented on the application for a Variance. He stated the Water District needs to construct a new PFAS treatment building that would help supply water to the Town and is requesting a Variance from the 20 ft minimum frontage requirement, as they have no frontage. Mr. Mostoller noted the

unique soil conditions as the parcel is part of a glacial river valley that has an abundance of groundwater beneath it, whereas the surrounding lots consist of till and bedrock.

Scott Robb asked about the shape and topography of the lot. Mr. Mostoller showed the proposed plans, which clearly illustrated the unique topographical characteristics of the lot compared to adjacent lots, which makes it more difficult to pump and treat Town water.

The Acton Health Division submitted written conditions including the need to file for a hazardous materials permit application. They asked for clarification regarding whether or not all the wells will run through the proposed PFAS treatment building, and if private wells would be affected?

The only public comments were from Jennifer Phlion of 24 Grasshopper Lane, who expressed concerns about lighting and preservation of trees.

The Board of Appeals moved to close the hearing at 7:58pm 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 un 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 Petitioner 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 PFAS water treatment building on lot E4-47-1 in the ARC Zoning District.
2. There are circumstances relating to the topography 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



R. Scott Robb

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Szkaradek, Town Clerk

Date