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**BOARD OF APPEALS**

Hearing #18-08

**DECISION ON PETITION FOR A GRANT  
OF A SPECIAL PERMIT  
WITH RESPECT TO 11 FLAGG ROAD**

A public hearing of the Acton Board of Appeals was opened on Thursday, September 6, 2018, at 7:35 PM in the Acton Town Hall on the petition of John Terrey for a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw for the reconstruction of a detached garage/exercise room on a non-conforming lot. The property is located at 11 Flagg Road (Map/Parcel F5/39).

Present at the hearing were Ken Kozik, Chairman, Suzanne Buckmelter, Associate Member, Emilie Ying, Associate Member, and petitioners John and Sarah Terrey along with their architect. Staff present was Robert Hummel, Assistant Town Planner. Also in attendance were numerous members of the public.

**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, read the contents of the file and explained how the Board procedurally operates. The Board's file in the matter included the project details along with comments from members of the public and various Town departments, all in support of the proposed addition.

Mr. Kozik then asked the petitioner to begin. The petitioner stated that his house was without a garage for protection of vehicles and that most, if not all, of the homes nearby included garages. In addition, the petitioner wanted to include a small exercise room behind the proposed garage – no plumbing with respect to a sink, shower, bathroom and the like, was proposed. The entire project was designed in keeping with the exterior design of the current home on the lot.

Abutters expressed general support for the proposal and only minor concerns about possible drilling that might affect their well water supplies. The architect responded that no blasting was contemplated.

Receiving no additional input, the Board closed the hearing.

The Board of Appeals, after considering the above and the documents contained in the file, finds that:

1. The Petitioner seeks a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw for the reconstruction of a detached garage/exercise room on a non-conforming lot. The property is located at 11 Flagg Road (Map/Parcel F5/39).
2. The project is consistent with the Master Plan.
3. The project is in harmony with the purpose and intent of this Bylaw.
4. The project will not be detrimental or injurious to the neighborhood in which it is to take place.
5. The project is appropriate for the site in question.
6. The project complies with all applicable requirements of this Bylaw.

Therefore, the Board of Appeals, upon considering the above, voted unanimously to **GRANT** the **SPECIAL PERMIT**, subject to the following conditions.

1. The project to be built substantially as shown and described in the plans submitted to the Board on this date.
2. The applicant must comply with the submitted engineering comments.

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



Suzanne Buckmelter



Emilie Ying

Dated: 9/17/18

**EFFECTIVE DATE OF SPECIAL PERMIT:** No Special Permit, or modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, it has been dismissed or denied.

**EXPIRATION DATE OF SPECIAL PERMIT:** This Special Permit must be exercised within two (2) years of its effective date.