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BOARD OF APPEALS
Hearing #18-09

**DECISION ON PETITION FOR A GRANT
OF A VARIANCE
WITH RESPECT TO
54 WILLOW STREET**

A public hearing of the Acton Board of Appeals was held on Monday, December 10, 2018, at 7:30 PM in the Acton Town Hall on the petition of Jeff Poretto and Yvonne E. Poretto for a VARIANCE under Section 10.5 of the Acton Zoning Bylaw for construction of a two-car garage with a second floor within the front yard setback. The property is located in the R-2 zoning district at 54 Willow Street (Map/Parcel F2-B-93 and F2-B-94).

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, Ye Emilie Ying, Member, and Kristen Guichard, Senior Planner. Also present were Jeff Poretto and Yvonne E. Poretto, the petitioners, and a close friend who resides in Acton.

Applicable 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.

Mr. Kozik opened the hearing, viewed the contents of the file and explained how the Board procedurally operates. Mr. Kozik then asked the petitioner to begin.

Mr. Poretto explained that he and his wife are requesting variance relief from the Bylaw to construct a two-car garage and second floor within the required front yard setback of Summer

Street. The lot includes two parcels in common ownership. 54 Willow Street is a corner lot, with frontage along Willow Street and Summer Street. The lot is non-conforming due to insufficient frontage and lot area.

In March of 2018, the petitioners applied for a building permit for the proposed addition. The permit was denied. A memo from the Planning Department was sent to the petitioners explaining that the proposed building addition would require both a variance from the front setback requirements and a special permit with the Zoning Board of Appeals for an expansion on a non-conforming lot (Zoning Bylaw Section 8.1.5) that is in excess of 15% of the existing Gross Floor Area. The front setback for R-2 is 30 feet. The petitioners propose a 10 foot setback to the proposed addition. The existing house has a setback of +/- 31.5 feet from Summer Street.

The petitioners contend that the current setback requirements combined with topography issues of the lot create a hardship for them in their attempt to remedy the flooding in their basement and the dangers experienced when backing out of their garage onto Summer Street.

Mr. Kozik referred them to the wording of the Section 10.5.5.1, reproduced above, and provided a general discussion of what the petitioners needed to demonstrate to the Board in order to be granted a variance. The petitioners could not demonstrate any circumstances relating to the soil conditions, shape, or topography of the LOT or STRUCTURES that were subject of this hearing that did not also affect LOTS or STRUCTURES generally in the zoning district in which it is located.

Mr. Hoffman and Ms. Ying asked the petitioners if they had considered alternate options, such as a one or two car garage located to the rear of the house. The petitioners responded that there were other constraints in play that prevented the construction of the proposed two car garage in any other position relative to the house.

With no further input, Mr. Kozik made a motion to close the public hearing. Mr. Hoffman 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 10.5.5.2 of the Acton Zoning Bylaw for construction of a two-car garage with a second floor within the front yard setback. The property is located in the R-2 zoning district at 54 Willow Street (Map/Parcel F2-B-93 and F2-B-94).
2. The front setback for R-2 is 30 feet. The petitioners propose a 10 foot setback to the proposed addition. The existing house has a setback of +/- 31.5 feet from Summer Street.
3. There are no circumstances relating to the soil conditions, shape, or topography of the LOT or STRUCTURES that were subject of this hearing that did not also affect LOTS or STRUCTURES generally in the zoning district in which it is located.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **DENY** 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



Ye Emilie Ying

Dated: 12/27/18