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**BOARD OF APPEALS**

Hearing #19-10

**DECISION ON PETITION FOR A GRANT OF A VARIANCE  
WITH RESPECT TO  
87 AND 97 PIPER ROAD and 1 DISCOVERY WAY**

A public hearing of the Acton Board of Appeals was held on Monday, July 1, 2019, at 8:30 PM in Room 204 in the Acton Town Hall on the petition of Howard Stein Hudson for a VARIANCE under Section 10.5 of the Acton Zoning Bylaw for the construction of a 2,130 square foot addition in the rear of a building, which would further exceed the maximum Floor Area Ratio (FAR) for the site. The property is located in the Office Park 2 (OP-2) zoning district at 87 and 97 Piper Road, 1 Discovery Way (Map/Parcel G3 Lots 70, 71-1, and 71-2).

Present at the hearing were Ken Kozik, Chairman, Adam Hoffman, Member, Scott Robb, Member, Kristen Guichard, Senior Planner and Vivian Birchall, Land Use Administrative Assistant. Also present were the petitioner and the real estate developer. Emelie Ye, associate member, was not present.

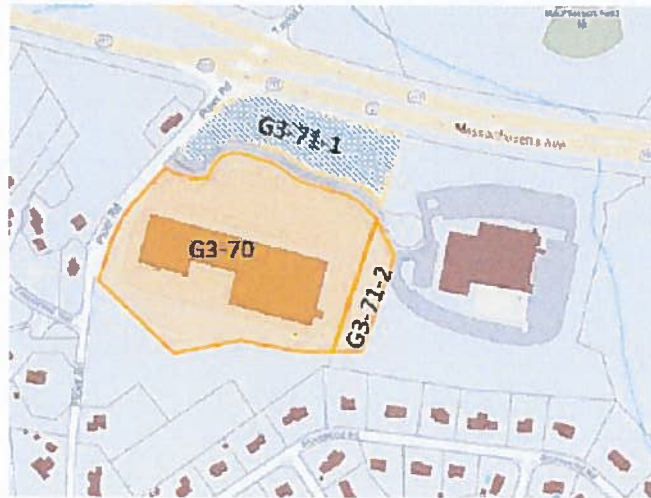
Applicable Bylaw:

*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.*

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

The petitioner explained that they are requesting variance relief from the Bylaw to construct a 2,130 square foot addition in the rear of a building, which would further exceed the maximum Floor Area Ratio (FAR) for the site. All other dimensional requirements of the Bylaw can be met. The FAR is based on parcels G3-70 and G3-71-2 (shown below in orange).



The petitioner refers to these three parcels in their request for a variance.

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. In response, the petitioner argued that the shape of the lot is the issue in this petition. More specifically, Lot G3-71-1 (shown in blue hatch mark above) is also in common ownership with the other two parcels, but is on the opposite side of Discovery Way, which precludes it from being calculated in the developable site area to determine the FAR. The petitioner argued that these circumstances relating to the shape of the lot affect them and not lots generally the zoning district in which it is located. Thus, the petitioner concluded that a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the petitioner.

With no further input, Mr. Hoffman made a motion to close the public hearing. Mr. Scott 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 the construction of a 2,130 square foot addition in the rear of a building, which would further exceed the maximum Floor Area Ratio (FAR) for the site. The property is located in the Office Park 2 (OP-2) zoning district at 87 and 97 Piper Road, 1 Discovery Way (Map/Parcel G3 Lots 70, 71-1, and 71-2).
2. There are circumstances relating to the shape 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**.

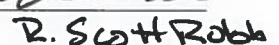
Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within 20 days after this decision is filed with the Acton Town Clerk.

**TOWN OF ACTON BOARD OF APPEALS**

  
Kenneth F. Kozik, Chairman

  
Adam Hoffman

  
~~Rob Scott~~

  
R. Scott Robb

Under Bylaw Section 10.5.7, any rights authorized by a variance which are not exercised within one year from the date of the grant of such variance shall lapse and may be reestablished only after notice and a hearing under Section 10 of the Bylaw.