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BOARD OF APPEALS

Hearing # 11-09

DECISION ON PETITION FOR GRANT OF SPECIAL PERMIT WITH RESPECT TO 49 MAPLE STREET, MAP H2-A/PARCEL 27.

The Acton Board of Appeals (the "Board") held a duly noticed public hearing on July, 11, 2011, at 7:30 PM at the Acton Town Hall on the petition by Jill Gregory for a Special Permit under Section 8.3.3 of the Town of Acton Zoning Bylaw (the "Bylaw") to allow an addition consisting of a single story sunroom to be built within the 30 foot front yard setback. The hearing was attended by Board Chairman Kenneth F. Kozik, Alternate Member Francis Mastroianni and Member Richard Fallon, and Assistant Town Planner and Zoning Enforcement Officer Scott Mutch. Attending for the Petitioner was owner Jill Gregory.

Chairman Kozik opened the hearing and read the contents of the file which included an inter-office staff report memorandum from Mr. Mutch, dated July 6, 2011, and plans and specifications for the proposed addition consisting of 5 pages prepared by New England Sunrooms & Conservatories. Chairman Kozik asked the Petitioner to begin.

Jill Gregory stated that the Zoning By-Law requires a 30 foot front yard setback on her property. The current structure on her property is legally pre-existing non-conforming with a front yard setback of only 12 feet, 2 inches. The proposed addition would be set back 19 feet, 5 inches. The addition that Ms. Gregory is proposing would extend horizontally within the already non-conforming front yard setback and not increase the non-conformity.

Input from Mr. Mutch indicated that the proposed addition, as submitted to him, does not appear to be any more substantially detrimental to the surrounding neighborhood than the currently existing non-conforming structure. No one at the hearing spoke in opposition to Ms. Gregory's petition.

Mr. Kozik closed the hearing.

The Zoning Bylaw

Section 8.3.3 of the Town of Acton Zoning Bylaw addresses the granting of a special permit to allow alterations to a legally existing non-confirming structure. More specifically, it states “A BUILDING, which is nonconforming with regard to any yard requirement may be extended horizontally within the dimension of its existing nonconformity by special permit from the Board of Appeals, provided the extension otherwise conforms to all the dimensional requirements of this Bylaw, and provided further that the Board of Appeals finds that such an extension is not substantially more detrimental to the neighbourhood than the existing nonconforming condition of the BUILDING.”

Findings

The Board of Appeals, after considering the materials submitted with the petition, together with the information developed at the public hearing, finds that:

1. The existing building is located in the R-2 (Residence 2) zoning district which requires a 30 foot minimum front yard setback. The existing building has a legally pre-existing non-conforming 12 foot, 2 inch front yard setback. The proposed addition will extend horizontally within an existing nonconforming front yard setback and not increase the non-conformity. The proposed addition, as submitted to the Board of Appeals, is not substantially more detrimental to the neighborhood than the existing non-conforming condition of the building.
2. The proposed deck shown on the Certified Inspection Plan submitted to the Board of Appeals is not addressed in this decision and is not intended to be built. Accordingly, no determination or decision with respect to such deck is made by the Board of Appeals by this Decision.

Conclusion

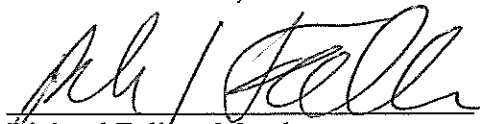
For the reasons stated above, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted 3-0 to GRANT the Special Permit with the following conditions:

- 1) The stanchions to be constructed to support the addition shall be screened from view by lattice or similar materials.
- 2) The addition shall be designed in such a manner as to be consistent and harmonious with the existing residential structure and constructed in accordance with the plans and specifications submitted to the Board of Appeals.
- 3) The addition shall otherwise conform to all the dimensional requirements of the Town of Acton Zoning Bylaw.

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

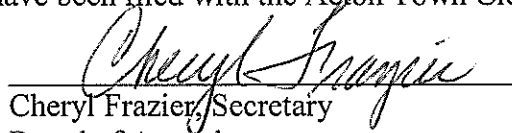

Kenneth F. Kozik, Chairman


Richard Fallon, Member


Francis N. Mastroianni, Alternate Member

Dated:

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on Aug 4, 2011.


Cheryl Frazier, Secretary
Board of Appeals