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**MINUTES OF THE HEARING ON THE PETITION OF**

**HEARING #11-15**

**GS HOLDINGS LLC, 50 POPE ROAD**

A public hearing of the Acton Board of Appeals was held on Monday, December 5, 2011 at 7:30 PM in the Acton Town Hall on the petition of Douglas Shaw, GS Holding LLC for a Public Hearing to seek a finding from the Zoning Board of Appeals that the proposed dwelling (as most recently revised) may be built upon the non-conforming lot despite Section 8.3.6 pursuant to M.G.L. Chapter 40A § 6, first paragraph. The subject property is located at 50 Pope Road. Map F-5/Parcel 49.

Present at the hearing was Ken Kozik, Chairman; Marilyn Peterson, Member; Adam Hoffmann, Alternate; Scott Mutch, Zoning Enforcement Officer; and Cheryl Frazier, Board of Appeals Secretary. Also present at the hearing was petitioner, Douglas Shaw and his Attorney, Louis Levine.

Ken Kozik opened the hearing, read the contents of the file and asked the petitioner to begin.

Mr. Levine, Attorney for the petitioner stated that the petitioner is a developer who purchased the property at 50 Pope Road. The existing structure is a one story Cape Cod style home with 1,142 square feet with a foot print of 34 by 24 feet. The property is located in an R-8 zoning district that requires a minimum of 80,000 square feet of lot area and 200 feet of lot frontage. The property has only 24,627 square feet of lot area and only 166.07 feet of lot frontage. Thus the current structure is deemed non-conforming. The property is compliant with all other zoning requirements, e.g. front, rear, and side setbacks.

The petitioner purchased the property but does not reside on the property or intend to reside there. The petitioner proposes to raze and or alter the current structure and erect a 1785 square foot structure, which he intends to sell. The current structure is a three bedroom residential dwelling. The proposed structure would remain a three bedroom residential dwelling.

Attorney Levine argument was that the increase of square footage of the structure from 1,142 square feet to 1785 square feet does not increase the non-conforming nature of the structure because the proposed structure complies with all other zoning bylaw provisions in the R-8 zoning district, e.g., front, rear, and side setbacks. More generally, attorney Levine argued that no increase in structure square footage on a non-conforming lot can be interpreted as an increase in non-conformity so long as a proposed structure complies with all other zoning bylaws. Accordingly, attorney Levine argued that petitioner is entitled to complete his proposed plans under Massachusetts law, at M.G.L. Chapter 40-A §6, first paragraph, as a matter of right.

The petitioner was asked about the approximate square footage of the homes on the surrounding properties. He stated many of them in the area of 50 Pope Road consist of dwellings with 1,500-2,500 square feet.

The Board questioned the Assistant Town Planner and Zoning Enforcement Officer, regarding the proposed modifications, Mr. Mutch stated that the Acton Planning Department is in favor of the petitioner's plan as proposed and submitted. They are in favor of granting the petition.

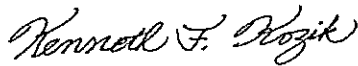
Marilyn asked if the abutters present tonight were in favor or against the proposal. Abutter, Tom Lemire said he was here tonight more because of curiosity. A Flagg Road abutter wanted to know what the size of the deck would be. Erna Brandon of Flagg Road was concerned about the septic system. They are all on wells in that area so they have a concern about where the septic system would be. She was concerned about the three bathrooms that are proposed. Mary Jane Sheffer of 38 Pope Road had some concerns.

Marilyn made a motion to close the hearing. Hearing #11-15 was closed.

The Board voted **3-0 to GRANT** the petitioner the right to alter the structure located on the non-conforming lot under M.G.L., Chapter 40A , §6, first paragraph , in accordance with plans submitted in conjunction with this hearing.

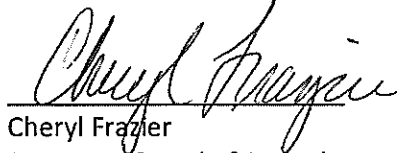
Ken Kozik to write the decision.

Respectfully submitted,



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Kenneth F. Kozik  
Chairman, Board of Appeals



Cheryl Frazier  
Secretary, Board of Appeals