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BOARD OF APPEALS

Hearing #16-12

**DECISION ON PETITION FOR GRANT OF SPECIAL PERMIT
WITH RESPECT TO 11 ORCHARD DRIVE**

A public hearing of the Acton Board of Appeals was held on Monday, December 5, 2016, at 9:09 PM in the Acton Town Hall on the petition of William Shurtz, for a **SPECIAL PERMIT** under Section 8.1.5 of the Acton Zoning Bylaw to construct an extension to an existing non-conforming structure on a non-conforming lot. The property is located at 11 Orchard Drive (Map/Parcel E2-24).

Present at the hearing were Jonathan Wagner, Chairman, Ken Kozik, Member and Adam Hoffman, Member. Staff present included Robert Hummel, Assistant Town Planner, and Katelyn Huffman, Board of Appeals Secretary. Also present was William Shurtz of Start to Finish Construction Company in Littleton, the builder representing the owners, Steven and Kimberly Shamah.

Mr. Wagner opened the hearing at 9:00 PM, read the contents of the file explained how the Board operated and asked the petitioner to begin. Mr. Shurtz requests a special permit under Section 8.1.5 of the Zoning Bylaw to allow for alterations to an existing single family dwelling located on a non-conforming lot. The owners propose to convert an existing office to a family room and expand the existing master bedroom/bathroom, attaching the expansion to the existing garage. The subject property is classified as a nonconforming lot based on insufficient frontage. The required frontage in the R-2 Zoning is 150 feet and the property in question has 125 feet. The subject property exceeds the minimum lot area requirement.

More specifically, the existing gross floor area of dwelling is 2,860 square feet. Under current zoning the owners are permitted to by right to expand up to 15% of the existing gross floor area of dwelling, or 429 square feet. The owners wish to expand by 771 square feet or 26.9%.

Members of the Board asked questions regarding the proposed expansion. Board members had no issues with the proposal. While no abutters were present, an email from an abutter approved of the proposed expansion.

Reviewing the file, it was noted that Planning Board, Water Department, Fire Department and Health Department submitted inter-departmental memos or emails indicating no issues with the proposed expansion.

With no further input, Mr. Kozik then 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 Petitioner seeks a SPECIAL PERMIT under Section 8.1.5 of the Acton Zoning Bylaw to construct an expansion to an existing non-conforming structure on a non-conforming lot. The subject property is located at 11 Orchard Drive.
2. The existing building is nonconforming because it does not comply with present frontage requirements specified in the Acton Bylaws.
3. The proposed expansion is consistent with the Master Plan and is in harmony with the purpose and intent of the Bylaw.
4. The proposed expansion is appropriate for the site and will not be more detrimental or injurious to the neighborhood than the existing nonconforming structure.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT the SPECIAL PERMIT** subject to the following condition:

1. The expansion is to be erected substantially as shown in the plans contained in the file on December 5, 2016.

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

Kenneth F. Kozik, Member

Jon Wagner

Jon Wagner, Chairman

Adam Hoffman

Adam Hoffman, Member

Dated: _____

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on _____, 2016.

Katelyn Huffman, Secretary

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.