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**TOWN CLERK
ACTON**



DECISION #17-06

DECISION ON THE PETITION OF CHRISTIAN LANCIAUX, 108 RIVER STREET

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, June 5, 2017 on the application of Christian Lanciaux for a **SPECIAL PERMIT** under Section 8.1.5 and Section 10.3.5 of the Zoning Bylaws to allow the construction of an addition to a single family residence on a nonconforming lot at 108 River Street, Map H3, Parcel 202.

Present at the hearing were Jonathan Wagner, Chairman; Kenneth Kozik, Member; and Adam Hoffman, Member. Also present were Katelyn Huffman, Board of Appeals Secretary; Roland Bartl, Planning Director, Christian Lanciaux ("Applicant") and abutting neighbors Jay and Patricia Rashbaum and Emilie Ying.

Chairman Wagner opened the hearing and read the contents of the file. In addition to the application (which included a Site Plan, architectural plans, photographs of the property and neighboring properties), the file contained an Interdepartmental Communication from Roland Bartl, Planning Director stating that the lot is a nonconforming lot in two respects, i.e. the present frontage is 39.5 feet whereas 150 square feet is required under present Zoning Bylaws and the present lot size is 12,323 square feet of area whereas 20,000 square feet of area is now required. The proposed addition would comply with all rear, side and front yard setback requirements.

The Gross Floor Area of the existing house is 1,338 square feet. Section 8.1.4 of the Zoning Bylaws would permit the Applicant to increase the size of the existing structure by only 200.7 square feet. Since the proposed construction consists of 2,743 square feet of Gross Floor Area (an increase of approximately 205%), the proposed addition constitutes an "extension, alteration or change" of an existing dwelling on a nonconforming lot requiring a Special Permit under Section 8.1.5 of the Zoning Bylaws.

Chairman Wagner asked the Applicant to explain his reasons for seeking the Special Permit. He explained that the purpose of the Special Permit was to permit the addition of an addition on the rear of the existing house together with a garage, all of which would make the property more attractive and also provide much needed living space for his family. Mr. Lanciaux further explained that while the construction was extensive, the rear portion of the lot

where the addition would be sited was sheltered by a steep rocky slope and barely visible from neighboring properties. In addition, the existing house is built on ledge, thereby precluding construction of a basement and necessitating alternative living area which is incorporated into the planned addition. The ledge and steep terrain also rendered the rear yard almost unusable other than for structural improvements.

In reviewing the plans submitted with the application, the applicant explained how his design was intended to retain the character of the house while making exterior changes that would enhance its attractiveness. The Board members, while noting the large increase in the square footage of the addition, concurred that the proposed addition would not be substantially more detrimental to the neighborhood than the existing structure on the nonconforming lot; and in fact would constitute a substantial improvement to both the existing structure and the neighborhood. (The Board also noted that 42.7% of the increase in square footage for the addition was attributable to the new garage and was not living space.)

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

1. The Applicant seeks a SPECIAL PERMIT under Section 8.1.5 of the Zoning Bylaws (which references and incorporates Section 8.1.4) to allow the construction of an addition to the existing single family dwelling on a nonconforming lot that will increase the size of the existing structure by more than 15%.
2. The site is located in an R-2 Residential District.
3. The site is a nonconforming lot because the present frontage is 39.5 feet whereas 150 square feet is required under present Zoning Bylaws and because the present lot size is 12,323 square feet of area whereas 20,000 square feet of area is required under present Zoning Bylaws.
4. Section 8.1.4 of the Zoning Bylaws permits an extension, alteration or change of a structure on a nonconforming lot if the proposed addition does not increase the size of the existing structure by more than 15% of the Gross Floor Area.
5. The Gross Floor Area of the present structure is 1,338 square feet; and under Section 8.1.4 the Petitioner is entitled to increase the size of the existing structure by approximately 200.7 square feet.
6. Since the proposed construction consists of 2,743 square feet of Gross Floor Area, it exceeds the allowable square footage increase by approximately 205% and constitutes an extension, alteration or change on a nonconforming lot that increases the size of the existing structure by more than 15% of the Gross Floor Area. Therefore the proposed addition is not allowed under said Section 8.1.4.

7. Section 8.1.5 of the Zoning Bylaws provides that “in all other cases” such extension, alteration or change of a structure on a nonconforming lot may be permitted by SPECIAL PERMIT if the Board determines “either that the proposed modification does not increase the nonconformity or, if the proposed modification does increase the nonconformity, it will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT”.
8. The proposed addition is an extension, alteration or change to a single family residential STRUCTURE that will not be substantially more detrimental to the neighborhood than the existing STRUCTURE on the nonconforming LOT.
9. The proposed addition is:
 - (a) consistent with the Master Plan and is in harmony with the general purpose and intent of the Zoning Bylaws;
 - (b) appropriate for the site and will not be more detrimental or injurious to the neighborhood;
 - (c) otherwise complies with the applicable requirements of the Zoning Bylaws.

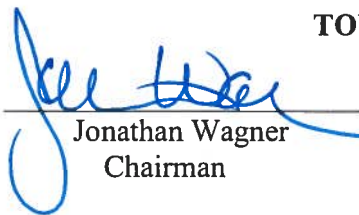
Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **SPECIAL PERMIT** subject, however, to the following **condition**:

The proposed addition shall be built substantially in accordance with the most recently submitted plans filed on June 5, 2017.

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

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

TOWN OF ACTON BOARD OF APPEALS


Jonathan Wagner
Chairman


Kenneth Kozik
Member


Adam Hoffman
Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on _____, 2017.

Katelyn Huffman, Secretary
Board of Appeals

This decision, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the Town Clerk that (1) 20 days have elapsed after the decision has been filed in the office of the Town Clerk and (2) either no appeal has been filed or an appeal has been filed within such time, has been recorded with the Middlesex South County Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.