

*Flannigan*  
DEC 24 2008  
*[Signature]*



## DECISION #08-09

### DECISION ON THE PETITION OF RALF BERGER

A public hearing of the Acton Board of Appeals was held on Monday, December 1, 2008 in the Acton Town Hall on the petition by Ralf Berger for a **SPECIAL PERMIT** under Section 8.3.3 of the Zoning bylaw to allow an 8 foot addition to the front of an existing one-family dwelling as a horizontal extension of a non-conforming side setback of 30 feet, located at 16 Wyndcliff Drive, Map D5/Parcel 7.

Present at the hearing were Board Members Cara Voutselas, Chairperson; Ken Kozik, Member; Marilyn Peterson, Clerk; Cheryl Frazier, Board of Appeals Secretary and Scott Mutch, Assistant Town Planner and Zoning Enforcement Officer. Also present at the hearing were petitioner Ralf Berger, along with his wife Melissa Berger and his contractor Mark Flannigan.

Chairperson Voutselas opened the hearing, read the contents of the file and asked the petitioner to begin.

Mark Flannigan, contractor for the petitioner, said the petitioner is proposing an 8 foot extension to the front of his house. The lot is a hammerhead lot with a required 50 foot setback. Their existing side yard measures 30.2 feet to the lot line. The proposed addition will add a total of 320 square feet and will not further encroach into the side setback. The existing house is 2,400 square feet. Melissa Berger said it was the only direction in which the house could be enlarged. The exterior finish of the addition will look substantially the same as that of the existing house.

Scott Mutch reaffirmed his opinion that his department had no objection to the addition or to the granting of the Special Permit as long as the addition shall at no point be closer than 30.2 feet from the northeasterly lot line.

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

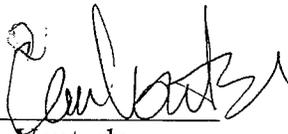
1. The Petitioner seeks a SPECIAL PERMIT under Section 8.3.3 of the Zoning bylaw to allow an 8 foot addition to the front of an existing one-family dwelling as a horizontal extension of a non-conforming side setback of 30 feet, located at 16 Wyndcliff Drive, Map D5/Parcel 7.
2. The existing building is nonconforming because it does not comply with present minimum side setback bylaw requirements.
3. The proposed addition will extend horizontally from the existing building and will be no further into the side setback area than exists presently; and, therefore, the additional does not increase the existing nonconformity.
4. The proposed addition otherwise conforms to all the dimensional requirements of the Bylaws.
5. The proposed addition is consistent with the Master Plan and is in harmony with the general purpose and intent of the Zoning Bylaws.
6. The proposed addition otherwise complies with the applicable requirements of the Zoning Bylaws.
7. The proposed addition is appropriate for the site and will not be more detrimental or injurious to the neighborhood than the existing nonconforming condition.

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 conditions:

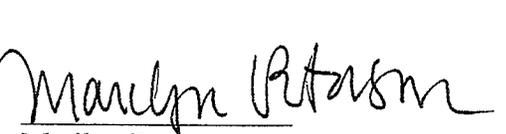
1. The proposed addition shall be built substantially in accordance with the Plans submitted with the Petition and contained in the file.
2. The addition shall at no point be closer than 30.2 feet from the northeasterly lot line
3. The addition shall not exceed approximately 8 feet or 320 square feet of total new area.
4. The addition shall be built substantially in concert with the current architecture of the existing structure.

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

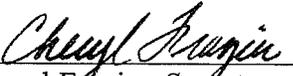
TOWN OF ACTION BOARD OF APPEALS

  
\_\_\_\_\_  
Cara Voutselas  
Chairperson

  
\_\_\_\_\_  
Kenneth Kozik  
Member

  
\_\_\_\_\_  
Marilyn Peterson  
Member

I certify that copies of the decision have been filed with the Acton Town Clerk and Planning Board on Dec. 24<sup>th</sup>, 2008

  
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Cheryl Frazier, Secretary  
Board of Appeals

EFFECTIVE DATE OF SPECIAL PERMIT: No permit or modification, extension or renewal thereof, shall take effect until a copy of the decision has been recorded in the Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that 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 an appeal has been filed, it has been dismissed or denied.

This Special Permit must be exercised within 2 years of its effective date.