



**Zoning Enforcement Officer**

**TOWN OF ACTON**  
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**INTERDEPARTMENTAL COMMUNICATION**

**To:** Chairman & Members of the Board  
Zoning Board of Appeals **Date:** January 28, 2014

**From:** Scott A. Mutch, Zoning Enforcement Officer & Assistant Town Planner

**Subject:** Special Permit #14-02  
Zoning Bylaw Section 8.1 – Nonconforming Lots  
Demolition of Portion of Existing Dwelling & Construction of Addition on  
Nonconforming Lot

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Location: 70 Maple Street, Acton, MA 01720  
Petitioner: Adam Hoffman, 292 Nagog Hill Road, Acton, MA 01720  
Owner: Adam & Jennifer Hoffman, 292 Nagog Hill Road, Acton, MA 01720  
Engineer: Foresite Engineering, 16 Gleasondale Road, Suite 1-1, Stow, MA 01775  
Architect: Jane E. Grover, Concord Lumber Corporation Littleton Lumber, Architecture  
Department, P.O. Box 1526, 2 Omega Way, Littleton, MA 01460  
Zoning: Residence 2 (R2)  
Groundwater Protection District Zone 4  
FAR Requirements: Existing Dwelling: 3,089 ft<sup>2</sup> (Based on Property Assessor's records & information)  
15% Permitted by-right: 463 ft<sup>2</sup>  
Total Proposed Square Feet of New Construction: 880 ft<sup>2</sup>  
Proposed Use: Single Family Residential Dwelling  
Registry of Deeds: Deed Book – 60450; Page – 0236  
Plan No. 652 of 1993, Plan Bk 1499 PG 315  
Map/Parcel: H-2A/16 & 41-1  
Hearing Date: February 3, 2014  
Decision Due: May 4, 2014

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**Introduction:**

The petitioner, Mr. Adam Hoffman, is requesting a Special Permit in order to allow for the demolition of a portion of an existing single family residential dwelling and construction of a new addition and deck. The proposed addition consists of a basement (with 7'-7<sup>3</sup>/<sub>4</sub>" clear headroom height), a 1<sup>st</sup> & 2<sup>nd</sup> Floor addition expanding the habitable interior space of the dwelling, and a new deck attached to the rear of the existing dwelling. The overall proposed new square footage is 880 square feet, which is in excess of the 15% permitted as-of-right under Section 8.1.4 of the Zoning Bylaw. The subject property is classified and determined to be a nonconforming lot due to insufficient lot frontage and lot area. The actual residential dwelling is also classified as a nonconforming structure due to the front yard setback being less than the minimum distance required. As per the Town of Acton Assessor's Office information, the existing structure was constructed in 1860 and is identified on the Town's Cultural Resource List.

Relevant zoning information for the subject site/property is summarized in the following table:

| <b>By-Law Requirements</b>         | <b>Required</b>        | <b>Existing</b>          | <b>Proposed</b>          |
|------------------------------------|------------------------|--------------------------|--------------------------|
| Min. Lot Area (ft <sup>2</sup> ) * | 20,000 ft <sup>2</sup> | 18,910 ft <sup>2</sup> * | 18,910 ft <sup>2</sup> * |
| Min. Lot Frontage (ft) *           | 150'-0"                | 94'-6" *                 | 94'-6" *                 |
| Min. Front Yard (ft) - North       | 30'-0"                 | 21'-10" **               | 21'-10" **               |
| Min. Side Yard (ft) – East         | 10'-0"                 | 30'-0"                   | 30'-0"                   |
| Min. Side Yard (ft) – West         | 10'-0"                 | 32'-9"                   | 32'-9"                   |
| Min. Rear Yard (ft) – South        | 10'-0"                 | 114'-0"                  | 125'-5"                  |
| Max. Building Height (ft)          | 36'-0"                 | Unknown (<36)            | Unknown (<36) ***        |

\* Due to the subject property only having 94'-6" of Lot Frontage and 18,910 ft<sup>2</sup> of total overall Lot Area, the Lot is therefore nonconforming.

\*\* The front yard setback is measured from the front property line along the Maple Street right-of-way to the nearest and/or closest edge or point of any building or structure. In this particular instance, the existing dwelling has a covered front entry porch with a roof/canopy structure which requires the setback to be measured to the columns which support the canopy/roof structure.

\*\*\* The architectural plans submitted for building permit review do not indicate the height of either the existing dwelling or the height of the new addition. An approximate scaling of the drawings provided would seem to conclude that both the existing dwelling and the new proposed addition would not exceed the 36'-0" maximum height limitation.

|   | <b>Existing</b>         | <b>15%</b>             | <b>Proposed</b>         | <b>Additional</b>        |
|---|-------------------------|------------------------|-------------------------|--------------------------|
| Gross F.A.R.<br>(Floor Area Ratio)<br>as of April 1, 2012 | 3,089 ft <sup>2</sup> * | 463 ft <sup>2</sup> ** | 880 ft <sup>2</sup> *** | 417 ft <sup>2</sup> **** |

\* This number is based upon information obtained from the Property Assessor's records and is a best estimation of the actual square footage of the existing structure. Due to the Lot being nonconforming, this is the number which reflects the existing square footage of the dwelling which was in existence as of April 1, 2012 as required under Zoning Bylaw Section 8.1.4. This number also includes and provides credit for areas which are proposed for demolition and will not be rebuilt.

\*\* Based upon the requirements set forth in Section 8.1.4 of the Zoning Bylaw, this would signify the maximum amount of square footage permitted to be built through the administrative approval of a building permit.

\*\*\* This number is a cumulative total of all of the proposed new construction which must be counted under Section 8.1.4 of the Zoning Bylaw.

\*\*\*\* This is the difference in square footage proposed above and beyond the 15% maximum permitted by right.

#### **Applicable Town of Acton Zoning Bylaw Sections:**

- 8.1.4 Extensions, alterations or changes of Single- and Two-Family Dwellings on Nonconforming Lots – One or more extensions, alterations or changes to a single or two-family residential STRUCTURE on a nonconforming LOT shall be deemed not to increase any nonconformity

and shall not require special permits under Section 8.1.5, provided that such extensions, alterations or changes comply with all applicable yard requirements and in total do not increase the size of the STRUCTURE by more than 15 percent of the GROSS FLOOR AREA in existence on April 1, 2012 or the date that LOT became nonconforming, whichever is later

- 8.1.5 In all other cases, the Board of Appeals may, by special permit, allow such reconstruction of, or extension, alteration or change to a single or two-family residential STRUCTURE on a nonconforming LOT, where it 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.