



TOWN OF ACTON
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Zoning Enforcement Officer

INTERDEPARTMENTAL COMMUNICATION

To: Chairman & Members of the Board
Zoning Board of Appeals
Date: January 26, 2015

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

Subject: Special Permit #15-03
Zoning Bylaw Section 8.1 – Nonconforming Lots
Construction of Addition on Nonconforming Lot in Excess of 15% (§8.1.5)

Location: 11 Berry Lane, Acton, MA 01720
Petitioner: Anita Rogers, 2 Thoreau Road, Acton, MA 01720
Owner: Lisa & Peter Moorman, 11 Berry Lane, Acton, MA 01720
Surveyor: John R. Snelling, 4 Farrar Road, Lincoln, MA 01773
Zoning: Residence 2 (R-2)
Groundwater Protection District Zone 4
FAR Requirements: Existing Dwelling: 3,114 ft² (Based on information obtained from the Town of Acton's Assessor's Office)
15% Permitted by-right: 467 ft²
Total Proposed Square Feet of New Construction: 1,204 ft²
Proposed Use: Single Family Residential Dwelling
Registry of Deeds: Record Book – 11762; Page – 220
Plan Reference: Plan No. 1194 A of 3 of 1969
Map/Parcel: G4-164
Hearing Date: February 2, 2015
Decision Due: May 3, 2015

Introduction:

The petitioner, Mrs. Anita Rogers, on behalf of the property owner's Lisa and Peter Moorman, is requesting a Special Permit under Section 8.1.5 of the Town of Acton's Zoning Bylaw in order to allow for the construction and expansion of an existing single family residential dwelling located on a non-conforming lot. The overall proposed new square footage is 1,204 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. As per the Town of Acton Assessor's Office information, the existing structure was constructed in 1975.

It is unclear from the drawings currently submitted as to what the overall height of the proposed addition will be. The existing structure is a 2-story building, while the proposed addition consists of a single story, which

could reasonable produce a conclusion that the maximum permitted height would be complied with, but is something which the petitioner should clarify during the hearing.

The Planning Department has no objection to the issuance and granting of the requested Special permit.

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

By-Law Requirements	Required	Existing	Proposed
Min. Lot Area (ft ²)	20,000 ft ²	41,150 ft ²	41,150 ft ²
Min. Lot Frontage (ft) *	150'-0"	80'-0" *	80'-0" *
Min. Front Yard (ft) – Berry Lane	30'-0"	60'-0"	56'-0" **
Min. Side Yard (ft) – Northeast	10'-0"	30'-0"	30'-0"
Min. Side Yard (ft) – South	10'-0"	60'-0"	37'-0"
Min. Rear Yard (ft) – West	10'-0"	Unknown (> 10'-0")	Unknown (> 10'-0")
Min. Rear Yard (ft) – North	10'-0"	Unknown (> 10'-0")	Unknown (> 10'-0")
Max. Building Height (ft)	36'-0"	Unknown (< 36'-0")	Unknown (< 36'-0") ***

* Due to the subject property only having 80'-0" of total Lot Frontage, the Lot is therefore nonconforming. Although the lot has more than double the minimum required lot area, the subject property is not considered a Frontage Exception Lot because it still has less than the 100'-0" minimum lot frontage requirement required to qualify. The subject property also does not qualify as a conforming Cul-de-sac lot because it does not have the 100'-0" minimum lot frontage required.

** The site plan for the proposed project does not indicate a new front setback dimension. The architectural plans indicate that the new proposed 2-car garage will extend approximately 4'-0" out closer to Berry Lane, which would result in an approximately 56'-0" front setback, still in compliance with the zoning bylaw's minimum requirements.

*** It is unclear from the architectural plans submitted for review what the actual height of either the existing dwelling or the height of the new addition currently is and or will be. The existing home is a 2 story structure while the proposed addition is only one (1) story in height. It is reasonable to conclude that the new proposed addition would not exceed the 36'-0" maximum height limitation.

	Existing	15%	Proposed	Additional
Gross F.A.R. (Floor Area Ratio) as of April 1, 2012	3,114 ft ² *	467 ft ² **	1,204 ft ² ***	737 ft ² ****

* This number is based upon information obtained from the Town of Acton's Assessor's Office and the field card. It is a best estimation of the actual gross square footage of the existing structure. Due to the Lot being nonconforming, this is the number which reflects the existing gross square footage of the dwelling which was in existence as of April 1, 2012 as required under Zoning Bylaw Section 8.1.4.

The project architect has indicated that the existing structure has a gross floor area of 2,294 square feet.

** 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 function of the overall existing gross floor area as indicated on the Town of Acton's Assessor's Office field card.

Based upon the project architect's gross FAR provided on the plans, it is indicated that the 15% maximum by-right square footage would be 344 square feet.

*** 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. The new proposed addition only consists of a 2-car garage (676 ft²). However, the existing 2-car garage (528 ft²) is proposed to be converted into a Family Room, Mudroom and Pantry and will become interior habitable living space which must be counted in the overall square footage.

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

Applicable Town of Acton Zoning Bylaw Sections:

5.2.7.1 Height in Feet, STRUCTURES – Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire STRUCTURE to the highest extension of any part of the STRUCTURE.

5.2.7.2 Height in Feet, BUILDINGS – Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire BUILDING at each exterior wall to the top of the highest roof beams of a flat roof or to the mean level of the highest gable or slope of a hip roof.

5.3.3 FRONTAGE Exceptions

5.3.3.1 FRONTAGE Exception LOTS – In the R-2, R-4, R-8/4, R-8, R-10/8, and R-10 Districts, the minimum LOT FRONTAGE may be reduced by 50 feet per LOT provided that the minimum LOT area required for each such LOT is doubled.

5.3.3.3 Cul-de-sac LOTS – In all districts the minimum LOT FRONTAGE for a LOT may be reduced to 100 feet per LOT provided that each such LOT fronts entirely on a cul-de-sac with a sideline radius of 62.5 feet or greater and provided further that no more than three such reduced FRONTAGE LOTS shall have FRONTAGE on the cul-de-sac.

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.