



## DECISION #15-01

### DECISION ON THE PETITION OF ROSS ISRAEL, 90 MARTIN STREET

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, January 5, 2015 on the Petition of Ross Israel for a **SPECIAL PERMIT** under Section 8.3.3 of the Zoning Bylaws to allow the horizontal extension of an existing non-conforming structure by construction of a front entry deck located at 90 Martin Street. Map H2/Parcel 95.

Present at the hearing were Jonathan Wagner, Chairman; Richard Fallon, Member and Adam Hoffman, Member. Also present were Scott Mutch, Zoning Enforcement Officer; Cheryl Frazier, Board of Appeals Secretary; and the Petitioner.

Chairman Wagner opened the hearing and read the contents of the file. The file contained Interdepartmental Communications from Planning Director Roland Bartl and from the Engineering Department stating that neither department had any objection to the proposed construction or the granting of a **SPECIAL PERMIT**.

The Interdepartmental Communication from Mr. Bartl explained that the property was located in the R-8/4 zoning district and that the building was non-conforming with respect to the front yard setback. The front yard setback under the present zoning Bylaws in the R-8/4 zoning district is 45 feet; whereas the front yard setback for the existing structure is 38.1 feet. Mr. Bartl also noted that the proposed new front deck would not extend any further into the setback area than the present deck and therefor was not increasing the nonconformity.

Chairman Wagner asked the Petitioner to explain the reasons he was seeking a **SPECIAL PERMIT** and to describe the proposed construction. Mr. Israel stated that the present entry stairs and deck was unsafe and needed to be replaced. The dimensions of the new deck will be 9'6" X 10'6" with a 5' wide stairs. It will not extend any further into the front yard setback area than the existing deck.

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 the horizontal extension of an existing non-conforming structure by construction of a front entry deck.
2. The existing structure is nonconforming because it does not comply with the present minimum front yard setback requirement in an R-8/4 zoning.
3. The new deck will extend horizontally from the existing structure and will not extend further into the front yard setback area than the present deck; and therefore the proposed construction does not increase the existing nonconformity.
4. The proposed construction is consistent with the Master Plan and is in harmony with the general purpose and intent of the Zoning Bylaws.
5. The proposed construction otherwise complies with the applicable requirements of the Zoning Bylaws.
6. The proposed construction 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, however, to the following **condition**:

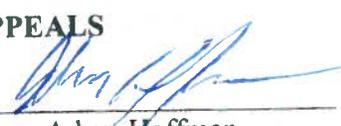
The proposed construction shall be built substantially in accordance with the Plans submitted with the Petition and contained in the file.

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

  
Richard Eallon  
Member

  
Adam Hoffman  
Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on February 24, 2015.



Cheryl Frazier, Secretary  
Board of Appeals

**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.