

BOARD OF APPEALS

Hearing #15-16

**DECISION ON THE PETITION OF WEST ACTON
BAPTIST CHURCH FOR A VARIANCE FROM THE
REQUIREMENTS OF SECTION 5, TO ALLOW EXISTING
STRUCTURES WITH GREATER THAN MAXIMUM FRONT YARD
SETBACK AT 270 AND 274 CENTRAL STREET**

The Acton Board of Appeals (the "Board") held a duly noticed scheduled public hearing on January 4, 2016, with regard to the Petition of the West Acton Baptist Church for a **Variance** from the maximum front yard setback requirement of Section 5 of the Zoning By-Law to allow existing structures at two newly created lots at 270 and 274 Central Street. Map F2/Parcels 100, 101, 116, 119.

Present at the hearing were Board Member Richard Fallon, as acting Chairman; Board Member Adam Hoffman; alternate Suzanne Buckmelter; Roland Bartl, Zoning Enforcement Officer; Robert Hummel, Assistant Town Planner; attorney Michael Katin, representing the Petitioner; and members of the public.

Richard Fallon opened the meeting, and read the contents of the file into the record. Attorney Katin spoke in support of the petition.

This hearing involves the West Acton Baptist Church (the "Church") premises located at the southwest intersection of Central Street and Mass. Ave., which includes the church building and other buildings. The structures have been in existence for over 100 years. A plan dividing the premises into three lots was endorsed by the Planning Board on an "Approval Not

Required" basis on August 10, 2015. The request for a variance concerns the buildings on lots 2 & 3, not the church building which is on lot 1.

The buildings on lot 2 are a single family residence, and a detached barn/garage, located at 270 Central Street. Lot 3 includes a church annex building, with a small accessory garage, located at 274 Central Street. Both these lots are in the West Acton Village District. Under Section 5 of the Zoning By-Law, there is a maximum front yard setback of ten feet in this district. When all buildings were on one lot, the 6.8 foot setback of the Church satisfied this. With the separation of the lots, neither lot 2 nor lot 3 satisfy this requirement. The single family house on lot 2 has a 44.6 feet setback, while the church annex on lot 3 has an 11 foot setback.

The Church wishes to sell the buildings on lot 2 and lot 3, and retain the church building on lot 1. The house is no longer used as a parsonage. There is a financial hardship to the Church if it is unable to sell these lots separately, and a general hardship in that all three lots would have to be sold together by the Church if it cannot sell lots 2 and 3 separately. There is a marketable title question on lots 2 and 3 unless a variance is received allowing the buildings on those lots to remain as is and where they are, in violation of the maximum front yard requirement of the West Acton Village District. This is an unusual situation in that a maximum rather than minimum front yard setback is involved, and the variance request is not to alter or construct a building, but rather to allow the buildings to remain as they are.

The Church requests a waiver of the requirement to provide a contour plan and USGS Map as set forth in the Variance Rules and Regulations.

The Planning Department had no objection to this Variance request.

A member of the public spoke in favor of the Variance request.

The hearing was closed.

The Board finds that this request is consistent with the Master Plan, and that desirable relief may be granted without substantial detriment to the public

good, and without nullifying or substantially derogating from the intent and purpose of the Bylaw, particularly since no construction is involved in this variance and the buildings have been in existence for many years. Furthermore, the Board finds that owing to circumstances relating to the topography of the structures on the lots in question, namely, their locations on lots 2 and 3, and especially affecting these lots, but not affecting generally this zoning district, a literal enforcement of the provisions of the Bylaw would involve substantial hardship to the petitioner.

The Board grants a waiver of the requirement to provide a contour plan and USGS Map as set forth in the Variance Rules and Regulations.

The Board votes unanimously 3-0 to **GRANT** this **VARIANCE** to lots 2 and 3 at 270 and 274 Central Street from the maximum front yard setback for hearing #15-16.

ACTON BOARD OF APPEALS

Richard Fallon, acting Chairman

Adam Hoffman, Board Member

Suzanne Buckmelter, Alternate

Dated:

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on February , 2016.

Kim Gorman, 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 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 decision does so at risk that a court will reverse the decision and that any construction performed under the decision may be ordered undone.

Under Bylaw Section 10.5.7, any rights authorized by a variance which are not exercised within one year from the date of the grant of such variance shall lapse and may be reestablished only after notice and a hearing under Section 10 of the Bylaw.